

# THE BOSTON FEDERAL COURTHOUSE: INSTITUTIONAL PLACES AND THE NATIONAL FACE

by

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
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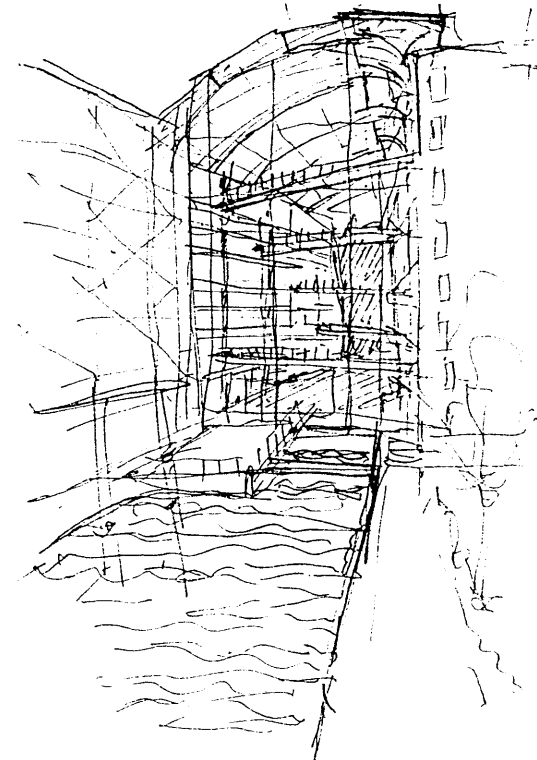
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## ABSTRACT

Federal institutions are significant instruments for promoting national identity. In the United States these institutions, including the judicial system, claim authority from a point of origin (identified by such terms as "the founding fathers") as well as from the Western traditions which the "fathers" are said to have improved upon. This thesis explores the possibility of an architecture that seeks to more accurately communicate the invented and evolving nature of the law, typically presented as timeless. The intention is to support the anti-authoritarian democratic ideals of freedom and equality which such socially constructed institutions were designed to uphold and to which they must continually be held accountable by the citizenry. Institutions such as the law are subject to constant change and interpretation but the usual approach to the architectural design of buildings that house such federal institutions bolsters inaccurate notions of permanence and immutability, with the use of closed monolithic forms and reference to simplified, yet glorified historical styles. In a democracy, institutional places must be designed to acknowledge that they are situated in a realm of indeterminacy and antagonism and must be responsible to a multivalent public. They must be presented as subject to transformation, rather than as glorifying masks presenting a unified, singular national face. To this end, an alternative proposal was explored for the Boston Federal Courthouse, presently under construction according to a design by Henry N. Cobb.

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## PREFACE

I arrived at the decision to embark on the design of a federal courthouse as a thesis investigation by a critical path. Several troubling observations focused my attention on the problem of designing institutional places in the context of issues of national identity.

The General Services Administration (GSA) has embarked on a building campaign, concentrating primarily on prisons and courthouses—building types associated with the maintenance of law and order. I am disturbed by the trend towards emphasizing order and incarceration rather than supporting more innovative approaches to societal problems. The new Boston Federal Courthouse in downtown Boston, is part of this building campaign.<sup>1</sup>

Accompanying the campaign is rhetoric about improving the image of courts and prisons and the tarnished institutions they house by hiring prominent architects. Examples of the new focus include the choice of highly visible sites such as the Fan Pier in Boston and the establishment of a “peer review” process for GSA commissions such as Richard Meier’s courthouse on Long Island, which was reviewed by Charles Gwathmey, Hugh Hardy, and John Goody.<sup>2</sup> While I agree with the intention to infuse new thought into the bureaucratic GSA, I question the band-aid approach of resurfacing the institutions with a grand flourish without rigorously examining the possibilities for substantive internal transformation of those institutions.

An example of the new approach to such projects is the design by BOORA Architects with Kohn Pederson Fox for the Portland Federal Courthouse, which was designed “to appear as a place where justice is deliberate, balanced, and carried out on behalf of the public.”<sup>3</sup> The emphasis on appearance in this statement suggests the possibility that the reality might be different. The plans

<sup>1</sup>The court is presently inconspicuously housed on the upper floors of the Post Office Building, an Art Moderne tower designed by Cram and Ferguson (1933.)

<sup>2</sup>*Architectural Record*, October 1993, p. 29.

<sup>3</sup>*Ibid.*, p. 27.

are described as calling for “unobtrusive security” and “a less heroic majesty for the judges.” But the surveillance system will undoubtedly be top of the line, and I doubt that the authority of the judges would be lessened if the convention of placing the bench on a raised dais is discarded.<sup>4</sup>

Henry Cobb’s design is similarly supported by grand intentions to represent and celebrate the virtues of the judiciary. He further intends to reshape, through architecture, the fractured public realm, seeking “to show how civic building and civic space, conceived together, can each confer meaning and value on the other.”<sup>5</sup> This sentence is a restatement of his problematic attitude toward the public sphere voiced at a GSD symposium in 1992 when, in response to questions about the dubious merits of the large semi-circular north facing plaza in his design, meant for public use of the waterfront, he responded, “should [we] think such a Place has no value because it may be unused? Just as the water is not expected to be used, why do we assume that the land has to be used? Isn’t it enough that we shape the edge so that the space has meaning?”<sup>5</sup> I disagree strongly with this statement. It is not enough to shape an edge, to give abstract form to a space, without considering the multiple meanings through use of that place. Cobb’s response, along with my initial negative reaction to images of the proposed design triggered my decision to focus critical thought on the courthouse project.

I have attempted to frame my work in the context of a larger ongoing critical investigation of political philosophy and the role of architecture in the construction of the various identities—national, cultural, and political—that constitute the “public” subject.



*Perspective view, Boston Federal Courthouse, Henry N. Cobb of Pei Cobb Freed & Partners (from GSD Exhibit Brochure, 1994)*

<sup>4</sup>George Anseleviecus discussed this last point with me last fall in describing his process in designing courtrooms for the law school at Washington University. Such symbolic gestures towards appearances, however well-intentioned, encourage deception.

<sup>5</sup> Brochure for an exhibit of the United States Courthouse and Harborpark designs, held at the Harvard University Graduate School of Design, April 4-30, 1994.

<sup>6</sup> *GSD News*, winter 1992.



# I TEXT



*photograph of the site*



*front of the Great Seal of the United States, designed in 1782 (Architectural Design v.57 no. 9/10, 1987)*



## DEMOCRACY AS A RADICAL THEORY

The question at stake is to make the fact that we belong to different communities of values, language, culture, and others compatible with our common belonging to a political community whose rules we have to accept.

-Chantal Mouffe<sup>1</sup>

American society is experiencing a crisis of faith in the existing political system. Architects and planners respond with dismay at the disintegration of traditional public space due to increasing privatization of inner cities and the burgeoning development of suburban and edge city environments. Others proclaim salvation in the imminent arrival of the information superhighway (newly nicknamed the *infobahn*) and the electronic town meeting—which are both expected to restore some notion of a unified *polis* as found in the civic republican tradition on which this country's political system was largely modeled.

At the same time “identity politics” have proliferated. Various minority groups, defined in terms of ethnicity, sexuality, gender, religion etc., are struggling for expanded rights, freedom from discrimination, and political power. These groups have fragmented and reconfigured the political landscape such that it has become impossible to legitimately posit a shared national identity. In response, the notion of “multiculturalism”, which is appealing to socially-minded architects, has been popularized as a strategy of union. But I believe multiculturalism is a flawed attempt to provide cohesion by constructing commonalities that obscure the conflicts that attend difference.

<sup>1</sup> Chantal Mouffe, “Citizenship and Political Identity,” *October* no. 61, summer 1992.

## A CRITIQUE OF ESSENTIALISM

The confusions concerning politics and cultural identity are surfacing in the context of a major intellectual challenge to long held premises underlying political positions on both the left and the right. This challenge stems in part from a larger critique of dominant Enlightenment modes of thought, which have been simplistically characterized by universalism, humanism and rationalism. Theorists as varied as Derrida, Wittgenstein, Heidegger, Dewey, Gadamer, Lacan, Foucault, and Freud have contributed to this critical discourse.<sup>2</sup>

I must note, however, that Enlightenment thought is multivalent and many of the seeds of the methods used to criticize it are to be found within it. Foucault has recognized this and noted that criticism must not be limited by the “intellectual blackmail” of being for or against the Enlightenment. The search for meaning through reason is still valid but the critical questions must be reformulated. For example, Foucault writes, “in what is given to us as universal, necessary, obligatory, what place is occupied by whatever is singular, contingent, and the product of arbitrary constraints?” The critique is transformed into “a historical investigation into the events that have led us to constitute ourselves and to recognize ourselves as subjects of what we are doing, thinking, saying.”<sup>3</sup>

Psychoanalysis has undermined the idea of a unified subject by demonstrating a dual nature model of the mind consisting of the conscious and the unconscious. Recent psychoanalytic theory has furthered this claim by theorizing that personal identity consists of a plurality of layers. At the bottom there is an empty place—a lack—which is nonetheless a condition for the

<sup>2</sup> Mouffe, *The Return of the Political*, Verso, London, 1993, p.75.

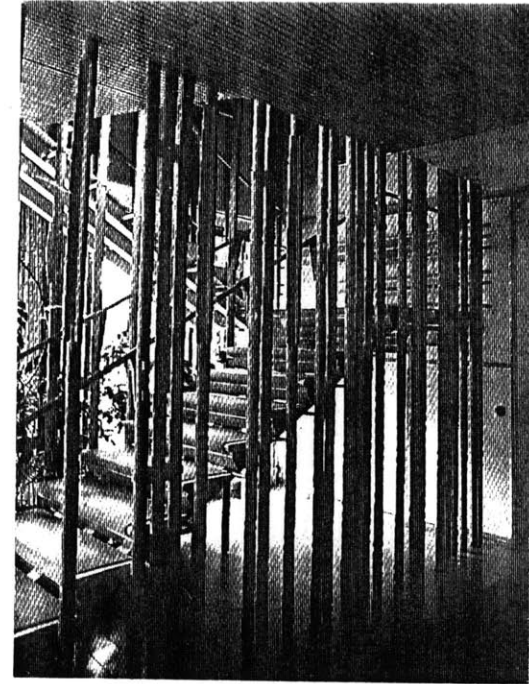
<sup>3</sup> Michel Foucault, “What is Enlightenment?,” *The Foucault Reader*, Pantheon Books, New York, pp.32-50.

constitution of any identity. Therefore, the essential part of the self is its non-fixity and state of constant movement towards the establishment of temporary, transitory nodal points. It is these fleeting moments of coherent expression that are recognizable by others as identifying the self.

This observation may be expanded to an understanding of community identity which may no longer credibly claim an essentialist core of attributes. Instead, community identity, be it in terms of race, gender, sexuality or nationality, must be understood as constructed in multi-layers in a constant state of flux. These identities are historical and contingent.

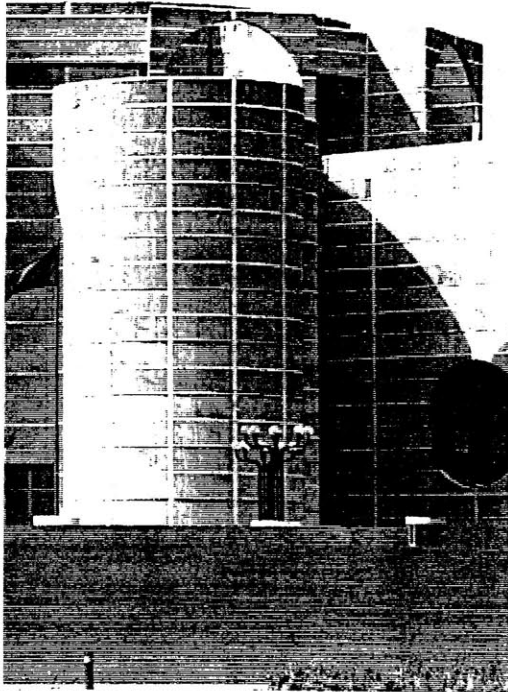
Philosophical hermeneutics provided fuel for the critique of essentialism by positing poetic language, rather than *a priori* knowledge, as the source of our connection to the world of things, thus challenging empirical descriptions of truth as based in the assumption of a unified subjective viewpoint. If meaning in language is not fixed and it is only through language that we can interpret the world of objects and events, then the meaning of the essential attributes of things—so called “facts”—is also in flux.

Anti-essentialism must be reflected in any new model of the civic realm or public sphere that is introduced to combat the aforementioned crisis of the political. In political philosophy, the implications of the de-stabilization of the unity of the political subject (or “citizen”) could lead to the substitution of multiple fragments, each with a fully constituted identity, in the place of the former singular understanding.<sup>4</sup> This would be to misunderstand the critique and to reintroduce the assumption of totality in the discourse of identity. The logical conclusion of this misinterpretation would be a condition of total relativism in which each separate identity is equally sovereign. As Mouffe



staircase at the Villa Mairea, Alvar Aalto  
(Weston, fig. 42)

<sup>4</sup>Mouffe, “Preface: Democratic Politics Today,” *Dimensions of Radical Democracy*, Verso, London, 1992, p.11.



*Citadel of Assembly at Sher-e-Banglanagar, Louis Kahn (Vale, p.239)*

<sup>5</sup> *ibid.*, p.11.

<sup>6</sup> Lecture by Stanford Anderson entitled "Louis I. Kahn: Reading Volume Zero" from a conference on the Sher-e-Banglanagar complex at Dhaka, held at MIT, 1991. The same concerns for origins are echoed in a quintessential Kahn comment about his design for a synagogue, "It is what the space wants to be: a place to assemble under a tree." From David B. Brownlee and David G. DeLong, *Louis I. Kahn: In the Realm of Architecture*, Rizzoli, New York, 1991, p.78.

writes, "It is therefore important not to visualize the dialectics of unfixity as a dialectic of *separation*, but as a dialectic of *subversion* and *overdetermination*."<sup>5</sup> One must recognize radical indeterminacy as characteristic of the multiple community identities that constitute the public political body. This recognition will allow for the articulation of a non-relativist view of identity and will also act against the establishment of a neutral concept of the political community.

Strict separations of public and private domains, in which the public is the political and the private is the personal, may no longer be maintained. These distinctions were critical to the formulation of a unified political subject as they limited inclusion of many categories of individuals who might upset the paradigm, such as women, into the public sphere. When participation was limited in this manner and acceptance of equality was applicable only to those already defined as participants in the realm of the public, notions of universal goals and singular definitions of "the common good" were considered possible. From this hegemonic viewpoint one could attempt, as did Louis Kahn, to investigate intuitively the origins or "Volume Zero" of liberalism, democracy and other institutions. He sought order in the archaic, as if a timeless essence could be found to represent in stone and brick.<sup>6</sup>

## A MULTIVALENT READING OF MODERNITY

The anti-essentialist critique might suggest that one totally reject modernism because of its seemingly inherent coupling with the universalizing tendencies of the Enlightenment project. This would be to embrace the concept of a new condition—the postmodern. On the other hand, one might adopt, as I prefer to, a multivalent reading of modernism that allows for various strains of thought, some of which recognize the radically indeterminate quality of the modern condition. In this light, modernism is identified with the democratic revolution and characterized by the struggle of individuals and institutions to accommodate and adapt to a rapidly changing world in which inflexible paradigms are no longer tenable. The epistemological Enlightenment project of self-foundation, in which the inquiry is directed towards universal truth-seeking, then becomes just one of a number of concurrent adaptive struggles, albeit the most dominant one.

Marshall Berman writes of modernity as a dialectic: “To be modern is to find ourselves in an environment that promises us adventure, power, joy, growth, transformation of ourselves and the world—and, at the same time, that threatens to destroy everything we have, everything we know, everything we are.”<sup>7</sup> He likens this condition to Marx’s maxim that “all that is solid melts into air.” In other words, our knowledge of the environment is limited to the observation of nodal points in the flux of identities with which we are surrounded, but since these nodes are transitory, they are liable to dissolve upon perception.

<sup>7</sup> Marshall Berman, *All That Is Solid Melts Into Air*, Penguin Books, New York, 1982, p.15.

Mouffe recognizes the same paradox in discussing pluralist democracy. The moment a fully harmonious condition (in which difference is maintained and conflict resolved, as envisaged by Habermas) is achieved, would be the beginning of its disintegration. This is because stasis is impossible in any discourse of difference. She writes, “Such a democracy will therefore always be a democracy ‘to come’, as conflict and antagonism are at the same time its condition of possibility and the condition of impossibility of its full realization.”<sup>8</sup>

At the same time that Berman makes his observation about the paradox of modernity, he is still able to affirm the democratic struggle. He sees it as a part of the continuing modern process of people “asserting their dignity in the present—even a wretched and oppressive present . . . striving to make a place for themselves in the modern world, a place where they can feel at home.”<sup>9</sup> It is the epistemological project of self-foundation stemming from Enlightenment ideals that must be reconsidered, not the parallel political project of self-assertion.<sup>10</sup> In the wake of the collapse of communism and the reemergence of various nationalisms grounded in long standing ethnic and religious conflicts, the supposed victories of democracy have proved hollow. Mouffe’s project of radical democracy aims to allow a struggle against totalitarianism and oppression to continue *within* the traditions of liberal democracy.

<sup>8</sup> Mouffe, *The Return of the Political*, p.8.

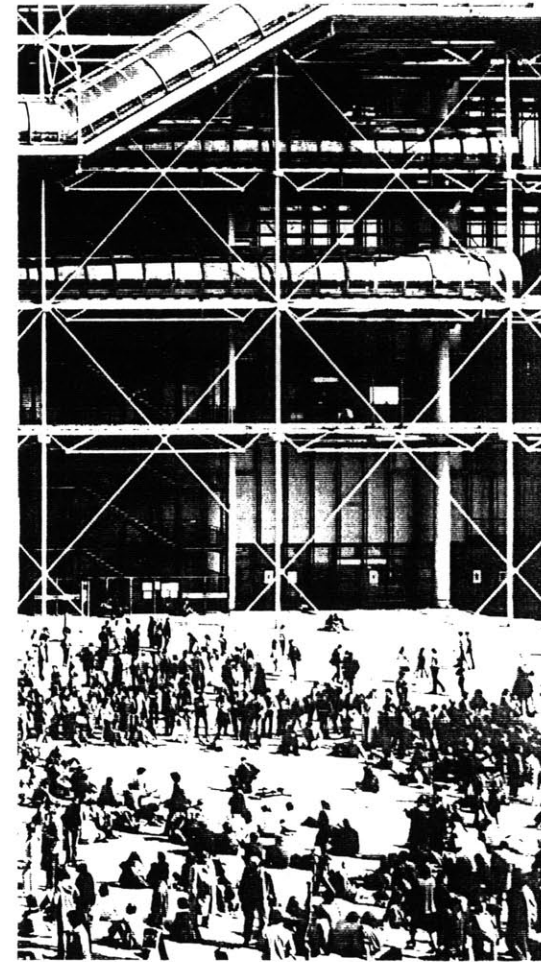
<sup>9</sup> Berman, p.11.

<sup>10</sup> Mouffe, *The Return of the Political*, 1993, p.8.  
Discussion of the ideas of Blumenberg in *The Legitimacy of the Modern Age*.

## THE POLITICAL

The first task in confronting the aforementioned crisis of political faith is to reconsider definitions of the political. It cannot be restricted to a certain type of institution or specific sphere of society, nor can it be abandoned to the hungry jaws of certain apocalyptic postmodern critics. The political "must be conceived as a dimension that is inherent to every human society and that determines our very ontological condition."<sup>11</sup> In other words, we must recognize the political as a condition of our very being. In this sense, the *principle* of the political is universal, though not the *content* of that identity.

Julia Kristeva presents an interesting analysis of the *Declaration of the Rights of Man and Citizen*, adopted in France in August, 1789. This document affirms the natural right of humans to liberty and equality but then goes on to locate these rights in the realm of political associations and in the sovereignty of the nation. "Thus the free and equal man is, de facto, the citizen."<sup>12</sup> There exists a human/citizen duality at the core of both the French *Declaration* and the American *Declaration of Independence*. The advantage of this duality is that an "inalienable horizon" was established in the realm of human ethics, beyond the jurisdiction of national political conscience. But the barbarity of National Socialism and the subsequent critique of abstraction rooted in eighteenth century Enlightenment thought has undermined the sanctity of this "inalienable horizon." In order to retain the notion of fundamental rights as defined during the Enlightenment, *principle* must be separated from *content*. This is analogous to the previously stated distinction between the political project of self-assertion and the epistemological project of self-foundation. As Kristeva



Centre Georges Pompidou in Paris, Richard Rogers and Renzo Piano (Piano, p.25)

<sup>11</sup> Mouffe, *The Return of the Political*, p.3.

<sup>12</sup> Julia Kristeva, *Strangers to Ourselves*, Columbia University Press, New York, 1991, p.149.

writes, “It is only by maintaining the *principle* of that universal dignity—without scattering it among new national, religious, or private regionalisms—that one might consider modifying its *content*, taking into consideration what the behavior of human beings reveals as to their humanity . . . Being aware of that infernal dynamics of estrangement at the core of each entity, individual, or group certainly distances one from eighteenth century optimism but without calling the principle into question.”<sup>13</sup> Once again, there is an insistence on the necessity of the expression of difference to the assertion of the fundamental rights of liberty and equality.

Kristeva goes on to propose that the modification of the content of the notion of human dignity should not be relegated to courts of law alone, but should “fall within the province of ethics and psychoanalysis”<sup>14</sup> that is, an exploration and acceptance of the “alienations, dramas, and dead ends of our condition as speaking beings.” This exploration should lead us to recognize the other (or stranger) within ourselves and therefore to be more understanding and respectful of marginalized groups and individuals. This notion may be distinguished from “multiculturalism” in that the connection is sought through internal recognition of a specific condition rather than through a broad sweeping appeal to “shared humanity” which breaks down the moment conflicts emerge.

Kristeva suggests that this recognition may lead to a “middle way” allowing democratic societies to achieve “a cosmopolitanism interior to the nation-states.”<sup>15</sup> By following this middle way that accepts and transforms existing liberal democratic institutions while introducing an ethical component, political societies may avoid both the descent into nationalism as well as the desire to achieve the seemingly impossible utopia of eradicating national

<sup>13</sup> Ibid., pp.152-3.

<sup>14</sup> Ibid., p.153.

<sup>15</sup> Ibid., p.154.





*Garry Winogrand, Peace Demonstration, Central Park, New York, 1970 (Szarkowski, p.170)*

borders. I think Kristeva's analysis is central to negotiating the fulfillment of individual liberty while providing equality in a pluralist society while accepting that national borders will not, and should not, be eliminated. She suggests the possibility of maintaining the category "American" without having to fix its definition with specific characteristics.

## PLURALISM AND CITIZENSHIP

What are the implications of this notion of “the middle way” in political terms? As Mouffe formulates the problem, “The notions of citizenship and community have been stripped of much of their content by liberal individualism, and we need to recover the dimension of active participation that they hold in the classical republican tradition. Now this tradition needs to be made compatible with the pluralism that is central to modern democracy.”<sup>16</sup> In other words, the definition of “citizen” must be reconsidered to accommodate a larger number of subject identities. In the classical republican tradition, citizenship is empirically given. The community of citizens, then, is founded on an equally shared notion of the common good. In the liberal tradition, individuality is emphasized and the legal status of citizenship is accepted only to the extent that individual interests are furthered by the association. In both traditions, citizenship is seen as a legal status—a contract—accompanied by a fixed set of obligations and returns. The notion of citizenship that Mouffe puts forward, however, sees citizenship “not as a legal status but as a form of identification, a type of political identity.”<sup>17</sup>

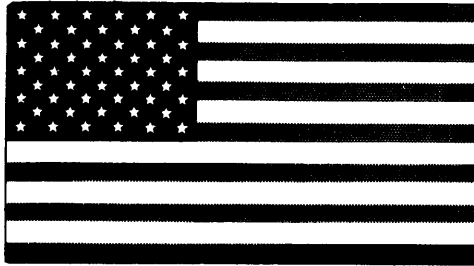
Mouffe writes that “there will always be competing interpretations of democratic citizenship.”<sup>18</sup> Concurrent with this re-emphasis on citizenship as a constructed identity rather than a pre-given status or a reluctantly accepted condition, must come the re-establishment of “the lost connection between ethics and politics.”<sup>19</sup> But, once again, this must not be done by emphasizing the classical republican notion of “the common good.” What is required is a recognition of instrumental ethical bonds in society that suggest shared loyalty

<sup>16</sup>Mouffe, “Preface: Democratic Politics Today,” *Dimensions of Radical Democracy*, p.3.

<sup>17</sup>Mouffe, *The Return of the Political*, p. 65.

<sup>18</sup>*Ibid.*, p. 66.

<sup>19</sup>*Ibid.*, p. 65.



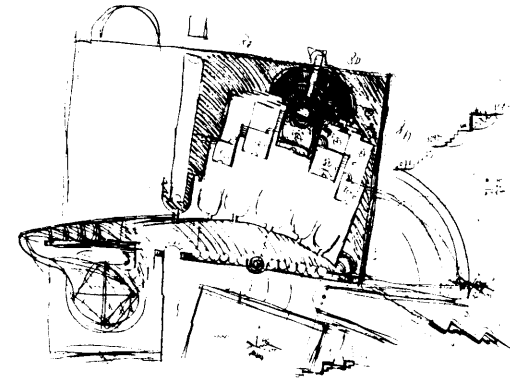
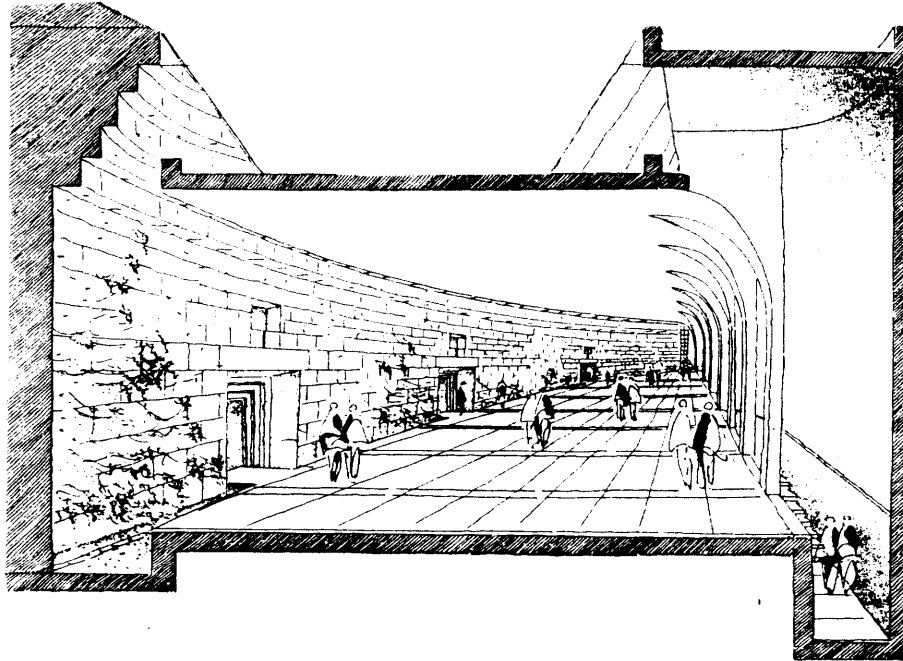
*United States flag* (Architectural Graphic Standards)

institutions, status or relations of authority.”<sup>9</sup> This type is of particular interest to the project of designing a federal courthouse. The process works by establishing a sense of membership and inclusion among citizens in the institution in question. Concomitant to this process of establishing inclusion is the definition of an “other”—those that are excluded.

Another observation of Hobsbawm is that new traditions have only filled a small part of the gap left in our daily private lives by modernization and the loss of old tradition and custom, while neo-traditional practices have proliferated in our public lives. “Indeed most of the occasions when people become conscious of citizenship as such remain associated with symbols and semi-ritual practices (for instance, elections), most of which are historically novel and largely invented: flags, images, ceremonies and music,” he writes.<sup>10</sup> While old traditions are centered around the necessity of procuring adequate food and shelter and in dealing with localized strife, and then in celebrating the achievement of these ends, invented traditions focus on increasingly abstract definitions of community. This observation is interesting in that it suggests that the imbalance between private and public realms has perhaps motivated the recognition of the impossibility of maintaining the public/private distinction when re-introducing radical politics, as Chantal Mouffe proposes.

<sup>9</sup> Hobsbawm, *The Invention of Tradition*, p.9.

<sup>10</sup> *Ibid.*, p.12.



*design studies for Israel Supreme Court building, Ram Karmi and Ada Karmi-Melamede (Progressive Architecture, April 1993, pp.69 & 76)*

practices. Yet the allusion to the ancient precedent persists, if only in the description and justification of architectural form and organization.<sup>8</sup>

The political institutions and ideological movements that have appeared out of the maelstrom of modernity are unprecedented in history. Nationalist movements in particular have relied on invented tradition to substantiate claims of historical continuity and to consolidate support behind symbols such as anthems, flags and images like Uncle Sam. Hobsbawm describes one of three major types of invented tradition as “those establishing or legitimizing

<sup>8</sup> See review of the Israel Supreme Court in *Progressive Architecture*, April 1993, an issue devoted to “The Making of Public Buildings.”

significance lay precisely in their undefined universality.”<sup>5</sup> To translate this point into architectural terms, classical forms and detailing are thought appropriate for public buildings and have been employed in many contexts, but it is far from clear why this should be so. Even the designers of architecture that is stylistically “modernist” seek to appropriate the language of the classical—by allusion, transformation, or other means—when the building is intended for civic use. Thus canonical modernists like Le Corbusier and Alvar Aalto have been cast in classical terms, either in their own writing (as with Corbu) or by others (such as Demetri Porphyrios on Aalto.) In the American context, architects such as Holabird and Roche curtailed their inventive use of materials and structure in commercial buildings when designing for civic use, such as their proposal for the Chicago City Hall.<sup>6</sup>

Inventing traditions “is essentially a process of formalization and ritualization, characterized by reference to the past, if only by imposing repetition.”<sup>7</sup> This process occurs more frequently when old traditions have been weakened, as has been characteristic of the worldwide modernization and industrialization trends of the last few centuries. Hobsbawm cites the law courts as an example of the adaptation of an ancient institution for operation in a changed context with changed functions. In their design for the Supreme Court building in Israel, Ram Karmi and Ada Karmi-Melamede claim to draw inspiration from the ancient Hebrew “courts” found just inside Jerusalem’s city walls. But it seems clear that litigation in a modern democracy such as Israel, although closely associated with the Jewish religious tradition, is much more substantially based on the judicial systems of other established democracies, such as the United States and Britain, than on ancient Hebraic

<sup>5</sup> Ibid., p.11.

<sup>6</sup> Sibel Bozdogan, *Towards Professional Legitimacy & Power: The Struggle, Dilemmas, and Achievements of the Architecture Profession in Chicago, 1881-1908*, Ph.D. Dissertation, University of Pennsylvania, 1983.

<sup>7</sup> Hobsbawm, *The Invention of Tradition*, p.4.

## INVENTED TRADITION

Invented traditions “are responses to novel situations which take the form of reference to old situations, or which establish their own past by quasi-obligatory repetition.”<sup>3</sup> It is the desire to establish conditions of invariance in the constantly changing modern world that drives movements to invent traditions. These invented traditions must be distinguished from customs. Customs do not preclude change or innovation but may “give any desired change (or resistance to innovation) the sanction of precedent, social continuity and natural law as expressed in history.” Hobsbawm illustrates this distinction with an example drawn from the law: “‘Custom’ is what judges do; ‘tradition’ is the wig, robe and other formal paraphernalia and ritualized practices surrounding their substantial action.”<sup>4</sup> In this sense, the notion of tradition is keyed into the artifacts surrounding and supporting a customary practice or set of practices. In the above example I would include the architectural expression of the courtroom and the arrangement of the primary components within it—the judge’s bench, counsel’s table, witness stand, jury box—as part of the tradition employed to support the customary practices of the various participants in courtroom drama.

Hobsbawm also distinguishes between old and invented traditional practices; “The former were specific and strongly binding social practices, the latter tended to be quite unspecific and vague as to the nature of the values, rights and obligations of the group membership they inculcate.” But interestingly, while the principles behind invented tradition are nebulous, the practices accompanying it are very specific. Hobsbawm concludes, “Their

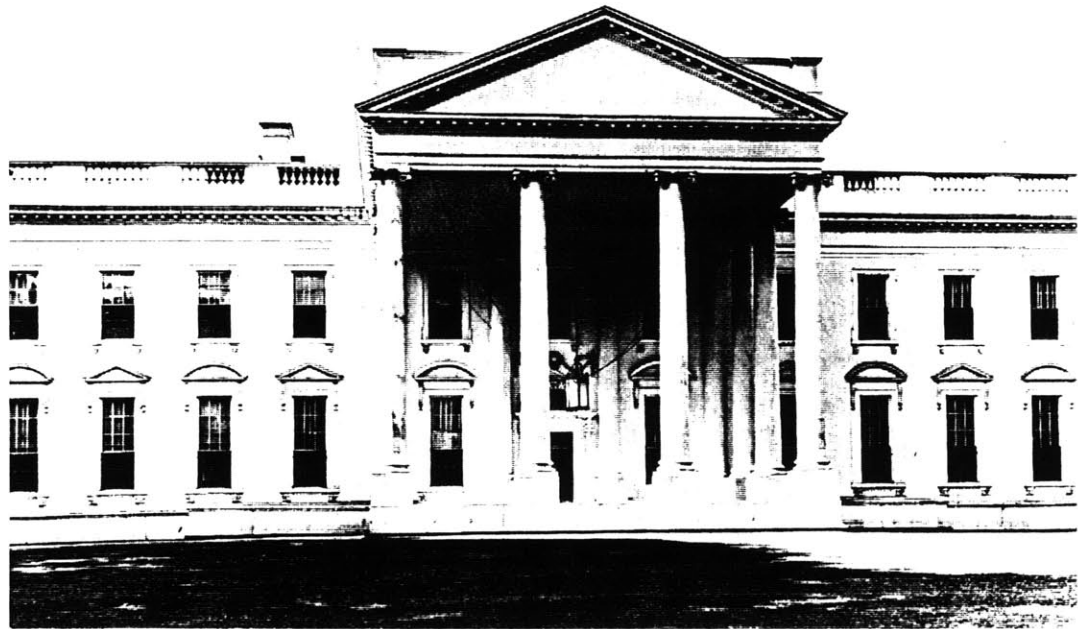


courtroom four, the Royal Courts of Justice, London, G. E. Street, 1871-1882  
(Brownlee, *The Law Courts*, p.334)

<sup>3</sup> Hobsbawm, *The Invention of Tradition*, p.2.

<sup>4</sup> *Ibid.*

richness of experience these traditions often allow, for to understand the process is not to automatically reject the results. In the modern struggle against alienation traditions are still highly serviceable, however invented they might be. Architectural expression is an often used variable in the business of inventing traditions, particularly in the support of nationalist agendas and institutional buildings, such as courthouses, are especially prone to assimilation towards the cause. Through a heightened understanding of the process of constructing traditions and the expression of this insight in architecture, the possibility of transformation may be revealed.



*The White House in Washington, DC, J. Hoban, 1792 (Benevolo, p.204)*

## NATIONAL IDENTITY IN THE UNITED STATES

“Invented tradition” is taken to mean a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seek to inculcate certain values and norms of behavior by repetition, which automatically implies continuity with the past. -Eric Hobsbawm<sup>1</sup>

The crisis of faith in the American political system is coupled with the dismantling of the mythology of origin that surrounds and supports the system. Allan Bloom and others have decried the revisionism that has denigrated traditionally “American” cultural forms such as the Western.<sup>2</sup> While avoiding the reactionary conservatism of Bloom, one still observes that these myths have in many cases been replaced with other, equally simplistic scenarios, such as the about face transformation of Christopher Columbus from a celebrated hero to a genocidal villain. Equally in question are the symbolic rituals that denote patriotism, from the simple pledge of allegiance to the flag to the unquestioning support of American troops abroad.

Perhaps what is required to address this crisis is an understanding of the processes of creating “invented traditions,” to use the term of the historian Eric Hobsbawm from the book *The Invention of Tradition*. There is a potentially destructive aspect to these traditions when employed to engender authority in a unified national culture by manipulating the populace to accept certain ideas unquestioningly as “natural” to the nation. Destructive tendencies might be diffused through a heightened awareness of the invented nature of some traditions; a diffusion could be achieved without lessening the

<sup>1</sup> Eric Hobsbawm, “Introduction: Inventing Traditions,” *The Invention of Tradition*, Cambridge University Press, Cambridge, 1984, p.1.

<sup>2</sup> In *The Closing of the American Mind*, Simon and Schuster Inc., New York, 1987, p.55, Bloom writes, “the unity, grandeur and attendant folklore of the founding heritage was attacked from so many directions in the last half-century that it gradually disappeared from daily life and from textbooks. It all began to seem like Washington and the cherry tree—not the sort of thing to teach children seriously . . . Finally . . . the radicals in the civil rights movement succeeded in promoting a popular conviction that the Founding was, and the American principles are, racist. The bad conscience they promoted killed off the one continuing bit of popular culture that celebrated the national story—the Western.”

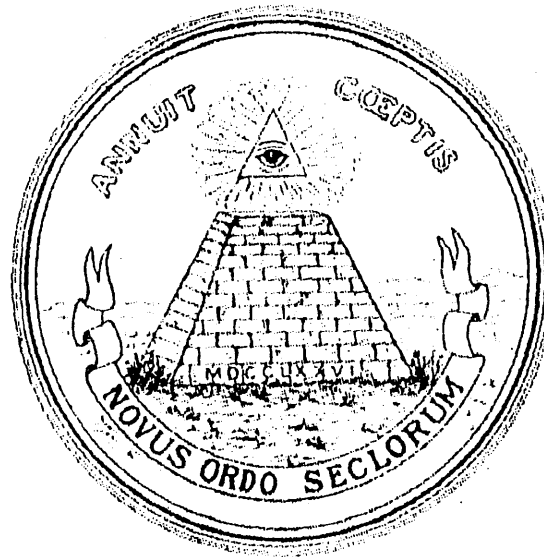




*head of Columbus Monument during restoration, Columbus Circle, New York City, 1990*

electoral procedure within a pluralistic society in which citizens have many loyalties. To this end she suggests that voters be allowed several ballots, which they may either spread among candidates or concentrate on one or two.<sup>23</sup>

Her efforts, which are clearly not meant to benefit any one specific group, but are designed to address the condition of minority status within any given constituency, are of the kind of radical transformative investigation from *within* liberal democracy that Chantal Mouffe supports. The goal remains the search for a more accurate adherence to the democratic principles of liberty and equality for all.



*back of the Great Seal of the United States, designed in 1782 (Architectural Design v.57 no. 9/10, 1987)*

<sup>23</sup>Lani Guinier, "Who's Afraid of Lani Guinier?" *New York Times Magazine*, February 27, 1994, p. 38.

## RADICAL DEMOCRACY

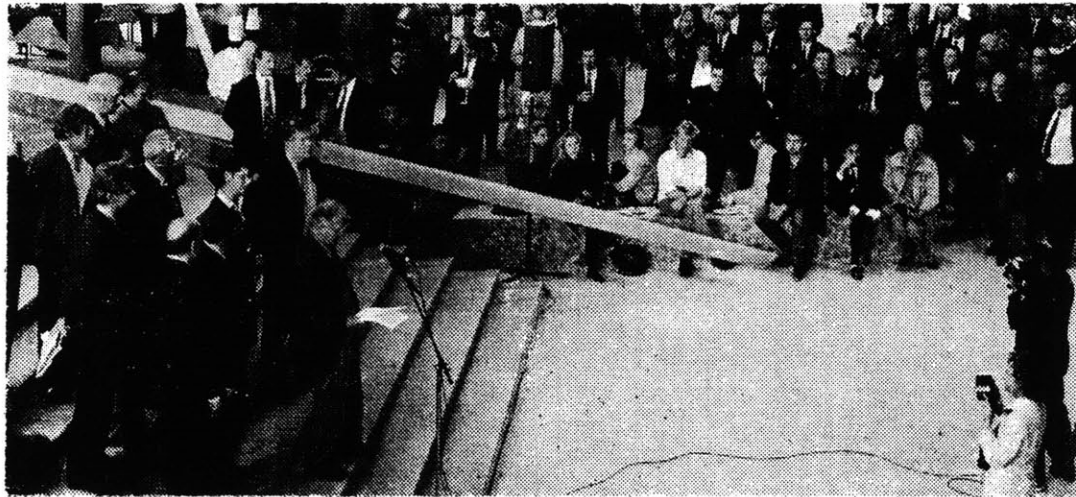
The frontiers between the public and the private, and between citizenship and individual identity cannot be definitively determined; these distinctions exist in a permanent state of tension that cannot be reconciled. This state of tension is characteristic of democracy. Mouffe writes, "Our understanding of radical democracy . . . postulates the very impossibility of a final realization of democracy. It affirms that the unresolvable tension between the principles of equality and liberty is the very condition for the preservation of the indeterminacy and undecidability which is constitutive of modern democracy."<sup>21</sup>

Homi Bhabha supports this understanding when he writes, "'indeterminism' is the mark of the conflictual yet productive space in which the arbitrariness of the sign of cultural signification emerges within the regulated boundaries of social discourse."<sup>22</sup> He goes on to identify cultures of survival—those who have suffered subjugation, domination, diaspora, and displacement—as a fruitful source for learning.

One political figure who has been clearly influenced by these theories is Lani Guinier, one-time nominee for assistant attorney general for Civil Rights whose nomination was withdrawn by President Clinton amid controversy about her academic writings. Her political theorizing, which was dismissed as a promotion of minority quotas, challenged notions about the implementation of majority rule. Her advocacy is for the avoidance of tyranny from the majority by devising alternatives to the one-person, one-vote concept. In a sense, she is exploring new and more complex methods of ensuring equality in

<sup>21</sup> Mouffe, "Preface: Democratic Politics Today," *Dimensions of Radical Democracy*, p. 13.

<sup>22</sup> Homi Bhabha, "Freedom's Basis in the Indeterminate," *October* no. 61, summer 1992.



*entrance lobby of the German Parliament  
Building in Bonn, Behnisch & Partner  
(L'Architettura, May 1993)*

without positing a set of shared purposes or goals. This is very similar to Kristeva's proposal to accept the principle of universal dignity while transforming the content.

In the project of radical democracy, citizenship is understood as a common political identity of people engaged in different purposes with differing goals who accept submission to the rules of political society, guided by a set of shared ethico-political values. In this sense, citizenship is an "articulating principle that affects the different subject positions of the social agent while allowing for a plurality of specific allegiances and for the respect of individual liberty."<sup>20</sup> The notion of citizenship is no longer abstract or universal; it is specific and contingent, requiring issues of difference and morality to be freed from the strict domain of the private for active consideration in the public realm. In this way the tradition of citizenship and community may be made compatible with a modern pluralist society.

<sup>20</sup> Ibid., p. 70.

## NATIONALISM

Ernest Gellner in his book *Nations and Nationalism* defines nationalism as “primarily a political principle which holds that the political and the national unit should be congruent.”<sup>11</sup> In other words, the borders of a nation should also define the limits of the sovereignty of its people, precluding empire or international ruling bodies. This principle is of recent historical origin, dating to the eighteenth century and it is, as Hobsbawm clarifies, “situated at the point of intersection of politics, technology, and social transformation.”<sup>12</sup> For example, modern standard languages, important to the development and continuance of nationalism, could not have existed before the development of printing and other tools for mass education. Gellner supports this notion of a connection to technology and social transformation through industrialization; he suggests that industrial production requires some level of homogeneity which nationalism provides. Historically, poor minority groups were willing to concede cultural distinction in such areas as language in order to benefit from the changed economic condition of industrialization.<sup>13</sup>

Nationalism is a form of constructed community identity that forms that part of the social being that relates to modern democracy. The term “imagined community” has been introduced by Benedict Anderson to describe this condition in which the political community is “imagined as both inherently limited and sovereign.”<sup>14</sup> The nation is limited, in that it is not imagined to be “coterminous with mankind.” It is sovereign in that it is conceived in the context of a modern consciousness of religious pluralism. The nation is a community in that “regardless of the actual inequality and exploitation that may

<sup>11</sup> Ernest Gellner, *Nations and Nationalism*, Blackwell Press, Oxford, 1983, p.1.

<sup>12</sup> Hobsbawm, *Nations and Nationalism Since 1780*, Cambridge University Press, Cambridge, 1990, p.10.

<sup>13</sup> Gellner, p.46.

<sup>14</sup> Benedict Anderson, *Imagined Communities*, Verso, London and New York, 1991 revised edition, p. 6.

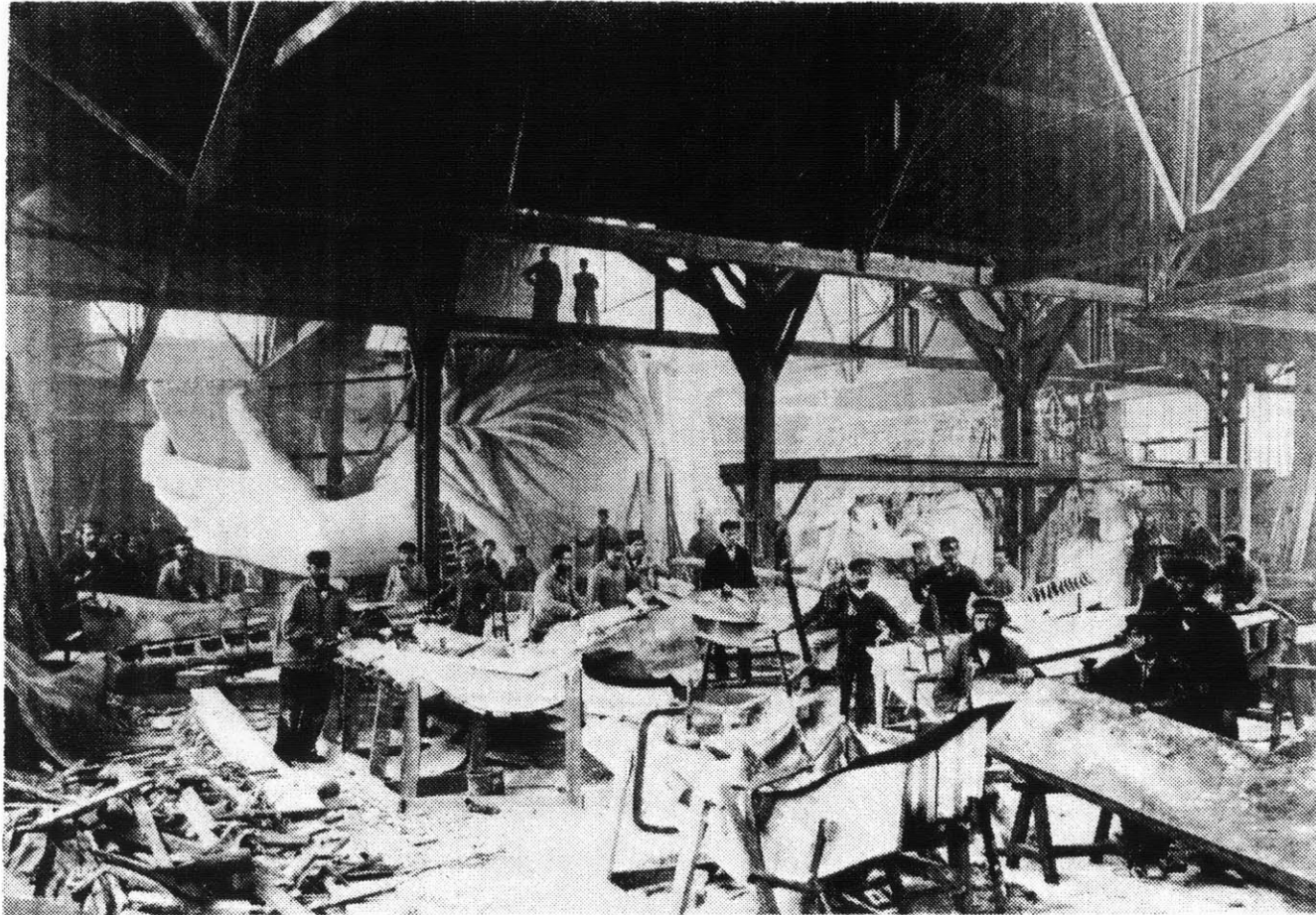
prevail in each, the nation is always conceived as a deep, horizontal comradeship.”<sup>15</sup> In other words, equality exists in sense, if not in fact, and this sense of the existence of equality may even obscure the direct observation of inequalities.

Clearly, nationalism is not directly linked to democracy and is compatible with many other forms of political organization, but it appears that the success of modern democracies is in part attributable not to the widespread acceptance of the political principles of liberty and equality, but to the principle of nationalism. I believe it is imperative to distinguish between practices that relate to and uphold the political principles and those that have been invented to support the nation as a “community” which we now understand to be largely imagined. Architecture can play a role in clarifying this distinction. The aim is not to eliminate the practice of inventing traditions, but to recast it in a less opaque form—not to denigrate the resulting symbols as a category, but to understand them as constructed and therefore open to the possibility of question and transformation.

Hobsbawm describes the process by which imagined communities develop in an area that has been defined as a nation. He writes, “Merely by dint of becoming a ‘people’, the citizens of a country became a sort of community, though an imagined one, and its members therefore found themselves seeking for, and consequently finding, things in common, places, practices, personages, memories, signs and symbols.”<sup>16</sup> Some of these places held in common include the Grand Canyon, the Statue of Liberty, and more recently, the Vietnam Memorial. National practices include Super Bowl weekend, the Tonight Show, and Thanksgiving dinner, while the list of national

<sup>15</sup> Benedict Anderson, p. 7.

<sup>16</sup> Hobsbawm, *Nations and Nationalism Since 1780*, p.90.



personages are heavily weighted towards the Founding Fathers (Washington, Jefferson, et. al.) but also includes tragic figures like John F. Kennedy, Marilyn Monroe, Malcolm X and Elvis Presley. The "Stars and Stripes," the yellow arches of McDonald's, and the American Bald Eagle (now an endangered species) head the list of national signs and symbols.

*Albert Fernique (?), Construction of the Statue of Liberty, Workshop View, Paris, c.1880 (Rosenblum, p.164)*

## THE MASS MEDIA

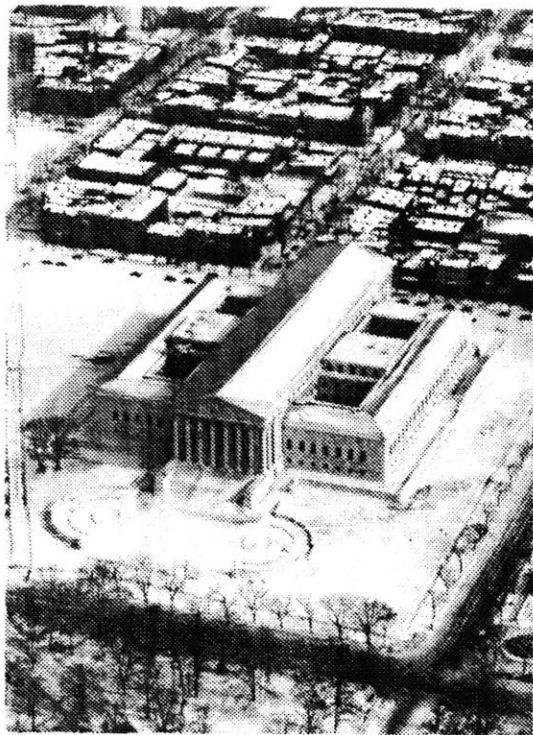
In the twentieth century, the mass media has been instrumental in introducing national symbols into everyday life and in breaking down divisions between local and national spheres of identification.<sup>17</sup> Gellner takes this observation a step further in claiming that it is the media themselves, irrespective of the content they project, that engender nationalism because of “the persuasiveness and importance of abstract, centralized, standardized, one to many communication . . . the core message is that the language and style of the transmissions is important, that only he who can understand them, or can acquire such comprehension, is included in a moral and economic community, and that he who does not and cannot, is excluded.”<sup>18</sup> Thus the media are essential tools in the creation of invented traditions that establish or legitimate institutions.

This observation may be explored through the recent phenomenon of “Court TV”, a cable television channel that shows footage of and commentary on actual court cases around the nation, in the process sometimes creating celebrities of the defendants. This show functions to make legal experts of every viewer. When courtrooms were closed to television, the public relied on the abridged version presented by reporters and courtroom artists, and only the diehard were interested in slogging through lengthy transcription documents. Now viewers are able to receive the same information as the jurors, and may feel that their judgment of the outcome of each case is equally valid with the jury’s. Thus while Court TV creates a national consciousness of and complicity with regional court cases, thereby establishing the judiciary as a

<sup>17</sup> Ibid., p.142.

<sup>18</sup> Gellner, p.127.





public media forum for the arbitration of the national mood on social issues through reactions to specific cases, it also serves to undermine and de-stabilize the sanctity of the jury as an institution by opening the process up to public scrutiny. The jurors in the recent Menendez trials, which ended up in hung juries, have become highly sought after on the talk show circuit.

(left) aerial view of the U.S. Supreme Court building, Washington, DC, Cass Gilbert, 1935 (Craig, p.322)

(right) cartoon by C. K. Berryman, February 10, 1937 referring to President Roosevelt's scheme to "pack" the Supreme Court in order to prevent his New Deal legislation from being overturned (Craig, p.348)

## ORIGINS OF THE AMERICAN POLITICAL SYSTEM

The United States Constitution, adopted in 1788, with the Bill of Rights of 1791, is the oldest prevailing such set of documents in any country. The democratic system in the United States, therefore, claims some authority on the basis of its longevity and relative consistency alone. It is useful to consider the origins of the American political system, and the sources from which it derives its authority. From this historical investigation, one may distinguish the elements that sustain the political traditions of the country.

The historian J. G. A. Pocock has considered the question of “the way in which political societies generate concepts of their existence in time, and encounter problems which necessitate increases in historical awareness and critical ability, as a result of their efforts to legitimize and understand their existence as political structures.”<sup>19</sup> He goes on to consider the role of Florentine civic humanism and its English modifications in the development of political thought in the United States.

The fifteenth century Florentine notion of the republican polis was of a society that “could persist only if all its citizens were so far autonomous that they could equally and immediately participate in the pursuit of the universal good.” This notion rested on a moral absolutism that proclaimed “autonomy or corruption.”<sup>20</sup> In the eighteenth century the English linked the condition of autonomy to the holding of property; such ownership would save the citizen from the corruption of economic—and therefore political—dependence. Pocock writes, “What increasingly frightened the humanists of that age was the apparition of modes of economic being which involved dependence upon the public

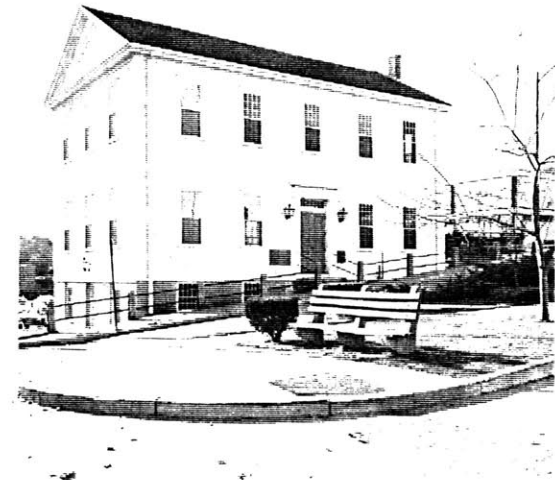
<sup>19</sup> J. G. A. Pocock, “Civic Humanism and Its Role in Anglo-American Thought,” *Politics, Language and Time*, Methuen & Co. Ltd., London, 1972, p.80.

<sup>20</sup> *Ibid.*, pp. 87-89.

power.”<sup>21</sup> From this perspective, feudal or “Gothic” society was a proper model. The non-professional, non-specialized freeholder, who performed military, judicial, and administrative functions, was identified with the autonomous classical citizen, while professional public servants were synonymous with corruption.<sup>22</sup>

Consequently, political thought in Anglo-America “became permeated with the idea that Europe was already corrupt through the loss of Gothic Liberty, that England, after escaping corruption through the survival of parliamentary institutions, was sinking into it at last, and that the Revolution was the necessary and triumphant struggle of America to escape that same corruption.”<sup>23</sup> Hence we may conclude that the American Revolution was to uphold the English principles of property which the Colonists had felt were corrupted in England itself and that this corruption was made manifest in exploitive colonial administrative policies. The Revolution was a fundamentalist movement; the Americans considered themselves more English than the English.<sup>24</sup> It has been argued that the Americans won independence because the British “weren’t all that convinced that they wanted to win” due to the warnings about the cost of Empire administered by Adam Smith in the 1776 publication *The Wealth of Nations*.<sup>25</sup>

To confront the rhetoric of nationalism, which would support the argument in England that the colonists were lesser English citizens than those residing in England, these lines in the *Declaration of Independence* were written: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these



Old Plymouth County Courthouse, Plymouth, Massachusetts, 1749 (Pare, plate 33)

<sup>21</sup>Ibid., p. 92.

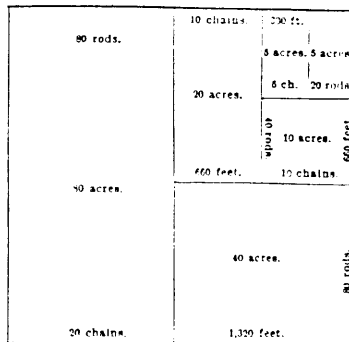
<sup>22</sup>Ibid., p. 94.

<sup>23</sup>Ibid., p. 96.

<sup>24</sup>Liah Greenfeld, *Nationalism: Five Roads to Modernity*, Harvard University Press, Cambridge, MA, 1992, p. 420.

<sup>25</sup>This line of argument is credited to Boorstin by Greenfeld, *Nationalism: Five Roads to Modernity*, p. 421.

A SECTION OF LAND — 640 ACRES.



A rod is  $16\frac{1}{2}$  feet.  
 A chain is 66 feet or 4 rods.  
 A mile is 320 rods, 80 chains or 5,280 ft.  
 A square rod is  $272\frac{1}{4}$  square feet.  
 An acre contains 43,560 square feet.  
 " " " 160 square rods.  
 " " is about  $208\frac{1}{2}$  feet square.  
 " " is 8 rods wide by 20 rods long,  
 or any two numbers (of rods) whose  
 product is 160.  
 25x125 feet equals .0717 of an acre.

rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

Once independence was achieved, fears persisted that American society would be corrupted; in Pocock's words, "Jefferson and his heirs continued to dread that government, great cities, banks, concentrations of finance capital and professionalized armies and navies . . . would corrupt the farmers of the West for the profit of the Urban East." Here, in an effort to preserve that notion that land-owning is the guarantee of political autonomy and moral virtue, we find the origins of the myth of the American frontier. The geopolitical utopia championed by Jefferson and scores of artists, writers and photographers, however, was understood to be as finite as the North American continent; consequently the mythologizing was infused with a pessimistic edge.<sup>26</sup> The notion that the means for resisting "corruption" are to be found in landedness persists in the virtue of (suburban) home ownership which guarantees a superior political personality. Those citizens who have not acquired such autonomy, and are dependent on the public power are, by this model, not politically fit to understand or contribute to the "universal good."

partial diagram of Jefferson's Land Ordinance (Benevolo, p.199)

<sup>26</sup> Pocock, *Politics, Language, and Time*, p.100.

## AMERICAN NATIONALISM

Arguably the largest functioning democracy, why were the United States able to cohere into a single nation and expand to several times their original geographic size, while maintaining their federation? The major challenges to the American nation were Texas's decade of independence (1835-46) and the Civil War (1861-65). Benedict Anderson suggests that had there been a sizable English speaking community in California in the eighteenth century, an independent nation might have arisen there.<sup>27</sup>

Robert Dahl suggests several factors that have contributed to the reduction of what he terms "regional cleavages." He notes the absence of strong regional subcultures, with the exception of African-Americans and the South. The mobility of Americans is another factor, supported by the frontier history of the country's growth and development. The internal heterogeneity of regions is another factor; borders of regions would be difficult to define.<sup>28</sup>

He defines American democracy as a "polyarchy"—a mixture of elite rule and democracy. He describes five characteristics to support this description. The first is the continued existence of discrimination against racial minorities, which remained institutionalized in the southern states until the Civil Rights Acts of 1964 and 1965. The second is the tolerance of the gap between the ideal and reality of the institution of equality. Third is the widespread acceptance of American institutions and a lack of tolerance for radical opposition movements; moderate voters wield considerable power. The fourth characteristic is the extreme partitioning of political authority into a "check and balance" system which, once again, supports the power of moderate

<sup>27</sup> Benedict Anderson, p. 64.

<sup>28</sup> Robert Dahl, *Democracy in the United States: Promise and Performance*, Rand McNally, Chicago, 1976, chapter 23.

groups. The final characteristic is the tendency towards incrementalist perspectives on political actions; problems are isolated and considered piecemeal rather than systematically, and consequently challenges are directed more often towards specific programs and proposals rather than towards entire institutions.<sup>29</sup>

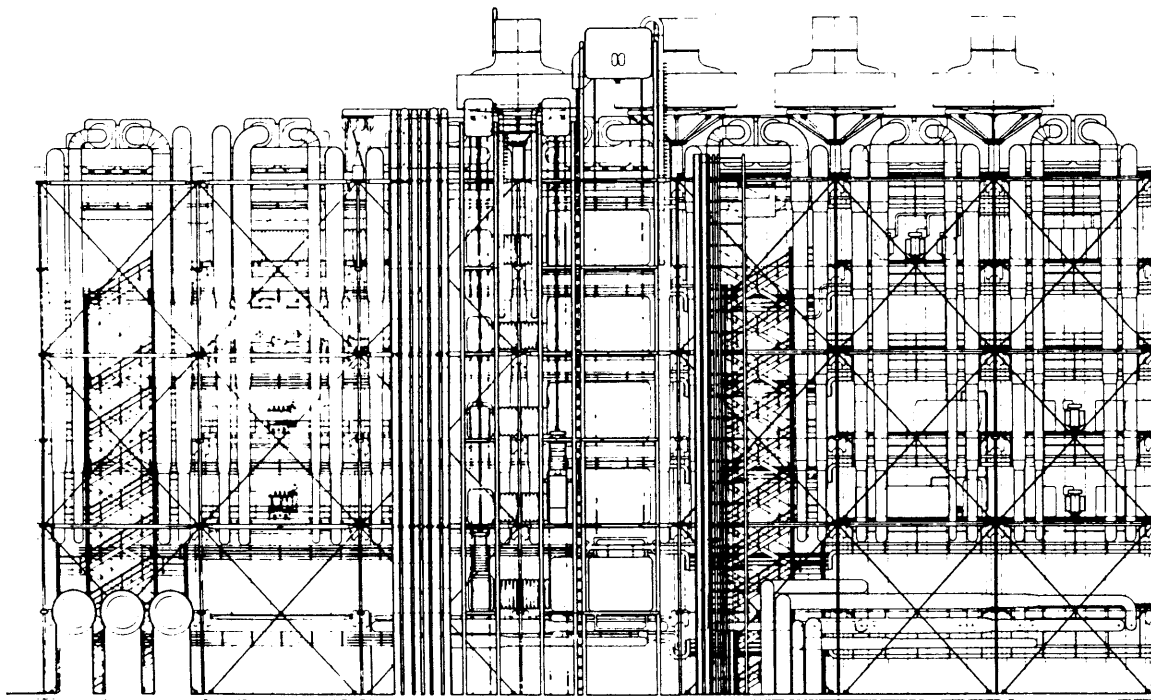
In the context of these characteristics it is easier to understand how Lani Guinier's thoughtful and challenging ideas were considered so controversial. Her proposal for multi-ballot voting to avoid a condition of majority tyranny is systematic. By contrast, the current trend towards redistricting to ensure minority representation is piecemeal. The strong reaction to a challenge such as Guinier's may be credited to the self-preservation instinct of nationalism in the face of racial tension, a rising crime rate, and a depressed economy in the United States. Hobsbawm has expressed this symptomatic instinct well: "The anguish and disorientation which finds expression in this hunger to belong, and hence in the 'politics of identity'—not necessarily national identity—is no more a moving force of history than the hunger for 'law and order' which is an equally understandable response to another aspect of social disorganization. Both are symptoms of sickness rather than diagnoses, let alone therapy."<sup>30</sup> It is clear that the same forces operate within other identity groups as well, such as those of minority status who actually do advocate quotas or other means of "pay-back" for past injustices.

<sup>29</sup> Ibid., pp. 53-59.

<sup>30</sup> Hobsbawm, *Nations and Nationalism Since 1780*, p.177.

## GLOBALISM

Hobsbawm argues that nationalism is becoming increasingly less important. Future political definitions will be supranational and infranational, reflecting the decline of the old nation-state type. Any future history “will see ‘nation-states’ and ‘nations’ or ethnic/linguistic groups primarily as retreating



*facade drawing of Centre Georges Pompidou, Paris, Richard Rogers and Renzo Piano (Piano, p.22)*

before, resisting, adapting to, being absorbed or dislocated by the new supranational restructuring of the globe.”<sup>31</sup>

In contrast, Benedict Anderson argues that “the ‘end of the era of nationalism,’ so long prophesied, is not remotely in sight. Indeed, nation-ness is the most universally legitimate value in the political life of our time.”<sup>32</sup> I would concede that globalistic economic structures are developing rapidly, but it seems that global political definitions do not necessarily follow. While the EEC may be an established organization, accompanied by the relaxation of European borders, signs that European political unity is advancing are few. Alliances and antagonisms of the past century persist (as between France and Germany) and, as Anderson notes, “nation-ness” remains the supreme political value. This is also true of the United States. While many supranational corporations that originated in this country, such as Pepsi-Co, may be observed to operate independently of national borders in the search of increased profits, the appeal of the products that these corporations peddle is often aligned with the nation of origin. Pepsi and McDonald’s are appealing the world over precisely because they are “American.”

Politically, it seems clear that nationalism will continue to be a potent factor, despite the efforts of global corporations to create transcendent economic alliances. I believe that it is possible to achieve the ethical “middle way” described by Kristeva and Mouffe in which the definition of citizenship is made compatible with pluralistic society.

<sup>31</sup> Hobsbawm, *Nations and Nationalism Since 1780*, p.191.

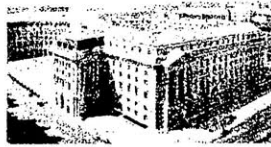
<sup>32</sup> Benedict Anderson, p. 3.



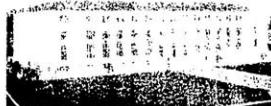


*hall of Gothenberg Law Courts, Gunnar Asplund, 1934-37 (Caldenby, p.110)*

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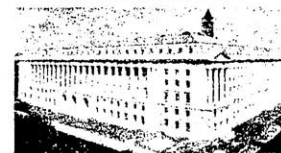
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Internal Revenue Building



Supreme Court Building



St. Elizabeth's Hospital



Dept. of Labor and Interstate C. C. Bldg.



Department of Commerce Building



Federal Reserve Building



Department of Justice Building

advertisement from The Federal Architect, c.1930 (Craig, p.318)

## PRECEDENT AND SYMBOLISM IN CRITICAL PRACTICE

Architecture can only be sustained today as a critical practice if it assumes an *arriere-garde* position, that is to say, one which distances itself equally from the Enlightenment myth of progress and from a reactionary, unrealistic impulse to return to the architectonic forms of the preindustrial past.

-Kenneth Frampton<sup>1</sup>

Having examined the political philosophy of radical democracy and the American political tradition in the context of nationalism, I now wish to turn to the subject of precedent in architecture. It is clear that an awareness of history plays a crucial role both in the understanding of identity—political and cultural—and in the creation of national traditions. In architecture, too, historical awareness has played an instrumental role; architects have by turns sought in their endeavors to embrace historicism or to transcend it. Hence the continuing “Ancients and Moderns” confrontation that may be traced back to the efforts of Vitruvius to ignore the innovation of concrete and to promote Ancient Greek models in Modern Imperial Rome.

Frampton’s call for an *arriere-garde* position suggests a critical attitude towards the advocates of both the moderns and the ancients. Critical architecture must articulate the indeterminate tension between these two positions: a condition of indeterminacy is also a fundamental characteristic of radical democracy. The relationship between architectural practice and traditional precedent must be carefully examined as must be the role of symbolism in the comprehension of socio-cultural-political space.

<sup>1</sup>Kenneth Frampton, “Towards a Critical Regionalism,” Hal Foster, editor, *The Anti-Aesthetic: Essays on Postmodern Culture*, Bay Press, Seattle, Washington, 1983, p.20.



Massachusetts State House, Boston, Charles Bulfinch (Vanderwarker, p.83)

## AN EPISTEMOLOGY

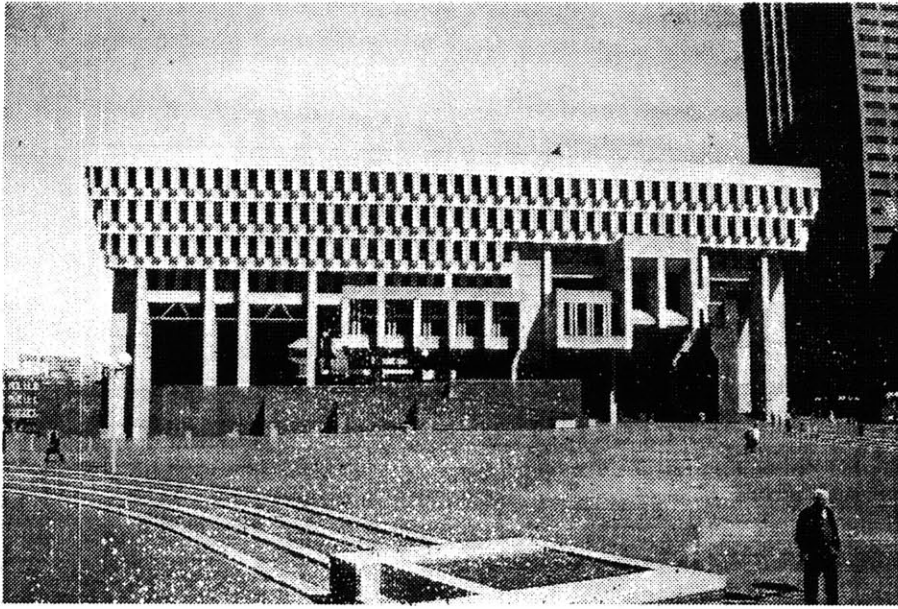
Stanford Anderson has eloquently stated the situation of architecture in relation to tradition. Writing in 1965, he noted: "The conclusion to be drawn from the tradition-bound character of our most famous contemporary architects is not that we must be rid of tradition, but rather that we should acquaint ourselves with our traditions—in order that we may use those traditions more eloquently or free ourselves from them, as we see fit. At times, traditions may be kept vital and more richly and subtly expressive by only the smallest of adjustments or innovations. Again, if our traditions have sunk to the level of torpid convention, radical innovation may be necessary."<sup>2</sup> These observations are still acutely valid today. Anderson's ideas are based on the epistemological philosophy of Karl Popper who promotes a systematic process of analysis in which there is no *a priori* absolute authority. In this context, then, the task at hand is to, firstly, understand the traditions; secondly, to identify the problems with these traditions; thirdly, to propose inventive transformations of the traditions; and finally, to observe and evaluate the effects of the transformations.<sup>3</sup> By following this systematic process, architects may learn from the mistakes of their predecessors, and through the procedure of self-evaluation, they will learn to improve on their own guesswork.

This viewpoint stresses the importance of both continuity and change; as Anderson writes, "Similar to science, society proceeds by the tradition of changing its traditional myths. But this process implies the impossibility of starting with a *tabula rasa*." <sup>4</sup> Popper contends that society requires a

<sup>2</sup>Stanford Anderson, "Architecture and Tradition that Isn't 'Trad, Dad'," *The History, Theory and Criticism of Architecture*, edited by Marcus Whiffen, MIT Press, Cambridge, MA, 1965, p.75.

<sup>3</sup>Discussion with Stanford Anderson, February 15, 1994.

<sup>4</sup> Stanford Anderson, "Architecture and Tradition that Isn't 'Trad, Dad'," p. 81.



*Boston City Hall, Kallman & McKinnell, 1968 ( Architectural Design v.57 no.9/10, 1987)*

structure and regularity that tradition provides as a sort of “horizon of expectations” against which experience is measured and adjustments in expectation are made. Therefore, tradition is a necessary condition of social experience. But these traditions in and of themselves gain no authority from their having occurred in the past and are, in fact, constantly open to criticism and rejection.<sup>5</sup> One can take this observation a step further and recognize, with Hobsbawm, that traditions are open to active reconstruction and invention. But we must also note, with Benedict Anderson, that traditions, however imagined, are capable of supporting social communities by providing the yardstick against which to measure experience.

<sup>5</sup> Stanford Anderson, “Architecture and Tradition that Isn’t ‘Trad, Dad’,” p. 81.

## PRECEDENT—LEGAL AND ARCHITECTURAL

To bring this examination closer to the issues and concerns of architecture, I suggest that in design, the concept of tradition is embodied in the forms, organizations, and materials used. The choices of the architect, then, have to do with the consideration of precedent in the buildings and designs of others. This process may be compared to concept of common law that is central to the British and American judicial systems. In these related systems there are two major types of law, codified and common. Codified law is determined in enduring civil codes which are then modified by statutes written by legislators; judgments are made by interpreting these documents. The American Constitution is a form of civil code. Common law is determined by precedent and is built up incrementally through the action of individual judges, decision by decision. Any decision that sets a new precedent is amply supported by previous decisions which are then subtly transformed through legal argumentation to arrive at the new judgement. New precedents often undergo a series of challenges, in the form of appeals, which propell controversial cases upwards in the judicial hierarchy, ending at the Supreme Court. Common law has proven extremely effective in modifying laws and adapting them to changed circumstances not foreseen by the creators of civil codes. Nevertheless, one may note that new precedents cannot be effective if they are created *ad hoc*; the judge must demonstrate that old precedents, untransformed, are untenable.<sup>6</sup>

<sup>6</sup> Peter Collins, *Architectural Judgment*, Faber & Faber, London, 1971, p.31. A rare situation is a case for which no precedent exists, called a case of first impression or *prima impressionis*. But these cases are infrequent, and may often be reconsidered as cases for which there are few analogous precedents, rather than none. The notion of invention in architecture may be similarly understood.

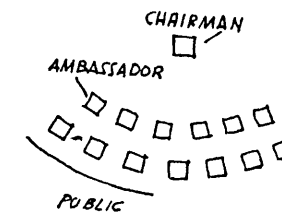
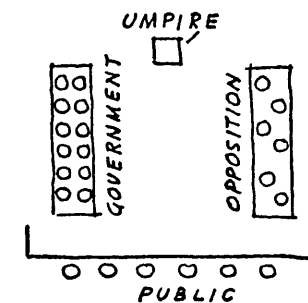
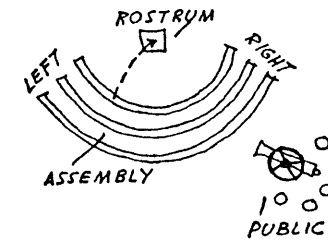
The impact of different systems of institutional organization on architecture was aptly illustrated by Paul Goodman many years ago in an essay

on seating arrangements. In a comparative discussion of democratic legislatures, he demonstrates that “various chambers that have historically developed are nicely adapted to subtly different notions of the theory and practice of representative government.”<sup>7</sup> It may be further observed that the actions occurring in these places are in turn affected by the surrounding architectural form.

In the French Chamber, heterogeneous interests are reflected in a semi-circular assembly that literally spans the political spectrum from left to right. The focal position of the president is highly unstable; overwhelmingly moving oratory is required to sway the crowd. It has been observed that the French, with the exception of such powerful figures as Napoleon and DeGaulle, have undergone rapid changes in leadership, reflecting the instability of this arrangement.<sup>8</sup>

In the British House of Commons, the Government Bench and the Opposition Bench face each other directly across an open divide, with the Speaker functioning as an umpire between the two sides. The situation is highly confrontational. As a result highly spirited debates occur in which the formalities of speaking in turn at the podium are dispensed with. The liveliness of these debates appears, from televised sessions, to produce overt expression of strong emotions—anger, insult and praise.

The American Senate operates on a different model that reflects the regional attachments of each senator. Their desks are widely separated and each one may speak from the floor. Oratory is directed to the record and the home constituents more than to the other members of the body, whose opinions are generally formed outside the chamber, in private meetings and small



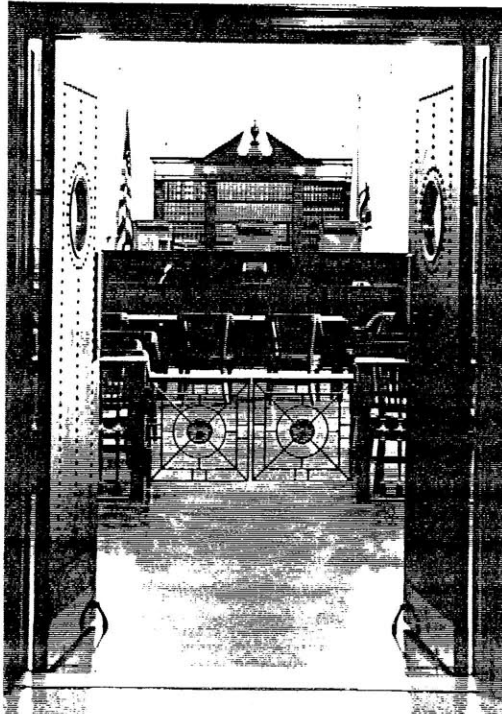
Paul Goodman, diagrams of seating arrangements in various democratic legislatures (Goodman, pp.69-71)

<sup>7</sup> Paul Goodman, “Seating arrangements: and elementary lecture in functional planning,” *Utopian Essays and Practical Proposals*, Random House, New York, 1962, p. 168.

<sup>8</sup> Discussion with Maurice Smith.



## SUPERIOR COURT ROOM



*Greenfield Courthouse, Franklin County, Massachusetts (Peet, p.24)*

<sup>9</sup> Paul Goodman, pp. 168-172.

<sup>10</sup> These relationships are examined in great detail by Allan Greenberg, "Symbolism in Architecture: Courtrooms," *Architectural Record*, May 1979, pp. 114-116. The essay is found also in Nathan Glazer and Mark Lilla, editors, *The Public Face of Architecture*, The Free Press, Macmillan Inc., New York, 1987, pp. 209-217.

<sup>11</sup> *Ibid.*, p. 210.

committees. This situation makes for less than riveting televised sessions, and for a situation of relative stability for the individual senators, such that the concept of term limitations is frequently under consideration. Goodman notes that the form of the chamber was designed before the establishment of the two-party system; therefore, the adversarial character of the binary opposition of Democrats and Republicans is not reflected.<sup>9</sup>

By following this form of analysis, I would suggest that the historical development of the courtroom in the American judicial system is similarly adapted to the system. The defense and prosecution are indirect adversaries, through the medium of the judge, whom they face rather than toward each other. To one side is placed the box of the jury—the presumably impartial representatives of the public, who must otherwise remain silent in the rear or at home watching the proceedings on television. The position of the witness box vacillates between a site next to the judge's bench, where both counsel have equal access to it, or to a spot opposite the jury box, establishing a cross axis.<sup>10</sup>

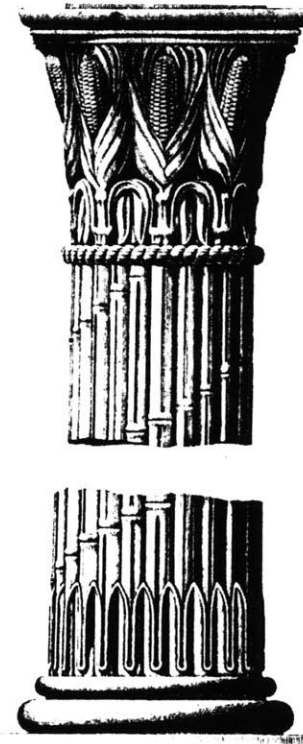
Allan Greenberg has noted the ways in which the traditional American courtroom is oriented toward the rights of the accused as opposed to the courtrooms of other traditions: "In eastern European countries the prosecutor sits on the podium next to the judge . . . in some Swiss courts, the jury sits behind the judge, who may also be a member of the jury panel; and an accused person in England does not sit at a table with counsel for the defense, but is isolated in a dock with a security officer."<sup>11</sup>



## SYMBOLISM

Clearly the spatial relationships of the courtroom carry symbolic weight. Also symbolic is the scenography of the courtroom setting. But the relationships between symbol and meaning are not fixed. As Murray Edelman has noted, "The prisoner in a solitary confinement cell and the mathematician in an austere office may occupy somewhat similar rooms, but the setting constricts the dignity and autonomy of the one as potently as it helps establish the dignity and autonomy of the other."<sup>12</sup> The courtroom then, gains its aura of authority not only through the hierarchical spatial relationships and the use of traditional symbols such as flags, gavels, formal ornamentation, but also through socially constructed expectations about the place. Courthouses, as public buildings, serve as condensers of symbolism, in that people can read into them what they will. Edelman explains this process: "the conspicuousness of public structures, together with their emptiness of explicit meaning, enables them to serve as symbolic reaffirmation of many levels of perception and belief arising from the aspirations, harmonies, and conflicts of everyday life."<sup>13</sup> While I would not agree that typical public structures are without explicit meaning of any kind, I support the notion that social conflicts, as well as moments of harmony, are reflected in these buildings.

Also accurate is Edelman's observation that the same space can exhibit reciprocity; for example, the traditional flight of stairs leading up to the courthouse (or Harvard's Widener Library for that matter) strikes fear into the hearts of those arriving as supplicants while stroking the egos of the elite functionaries who use the steps regularly.<sup>14</sup> But those elite functionaries are



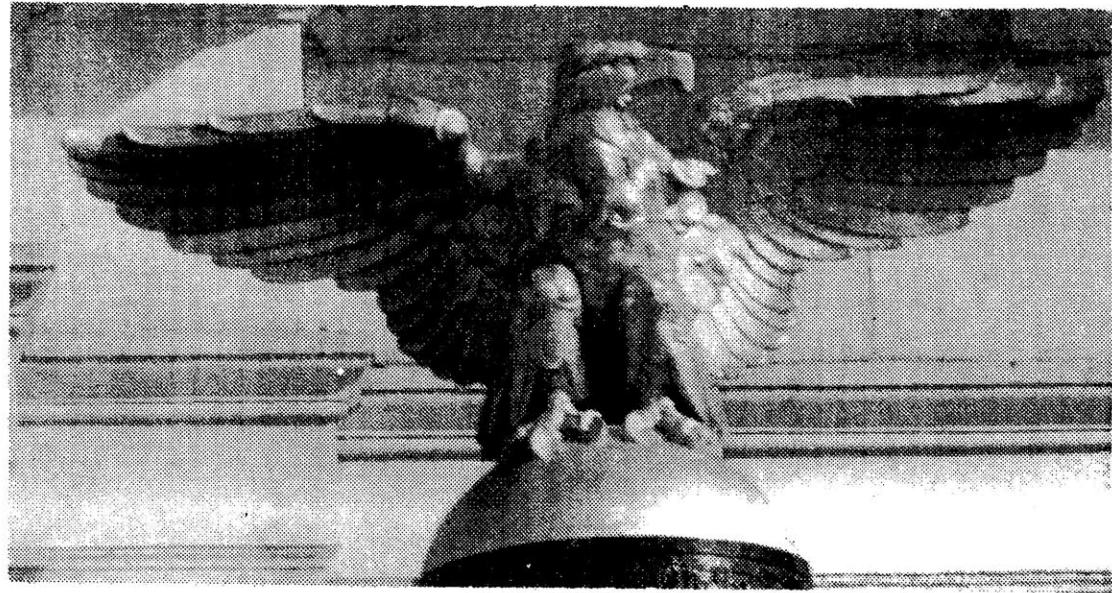
*Indian corn cob capital, U.S. Capitol Building, Benjamin Latrobe, c.1810 (Craig, p.36)*

<sup>12</sup>Murray Edelman, "Space and the Social Order," *Journal of Architectural Education* 32, November 1978, p.2.

<sup>13</sup>Ibid., p.7.

<sup>14</sup>Ibid., p.3.

*gilded American Bald Eagle (Craig,  
cover of paperback edition)*



capable of recognizing the constructed nature of their position. Almost 150 years ago, Nathaniel Hawthorne wrote of his post at the Boston Customhouse:

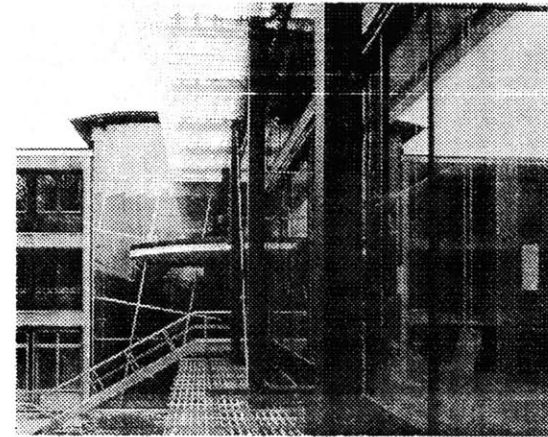
Over the entrance hovers and enormous specimen of the American Eagle. . . . With the customary infirmity of temper that characterizes this unhappy fowl, she appears, by the fierceness of her beak and eye, and the general truculency of her attitude, to threaten mischief to the inoffensive community; and especially to warn all citizens, careful of their safety, against intruding on the premises which she overshadows with her wings. . . . The pavement round about . . . has grass enough growing in its chinks to show that it has not, of late days, been worn by any multitudinous resort of business. . . . Neither the front nor the back entrance of the Custom House opens on the road to Paradise.<sup>15</sup>

<sup>15</sup> Nathaniel Hawthorne, Introduction to *The Scarlet Letter*, 1850, quoted in Lois Craig, editor, *The Federal Presence: Architecture, Politics, and Symbols in United States Government Building*, MIT Press, Cambridge, MA, 1978.

## CRITICAL PRACTICE

Transformations of courthouse and courtroom traditions must assume Frampton's "arriere-garde" mode and deal both with the unrealizability of progress and the inadequacy of the past. An example of an approach which promises to negotiate this terrain is the experimental misdemeanors court in the Times Square area of New York City. The court is embracing new electronic technology in the hope of better serving the repeat offenders that pass through its doors by issuing more productive sentences (required counseling and community service rather than jail time that will not be served and fines that cannot be paid) and improving the tarnished image of the judiciary as a system overwhelmed with bureaucracy. The approach is twofold: to keep lengthier electronic files on individuals so that each person who works with the defendant has access to the same depth of information, and to display updated scheduling information on monitors in public areas and in cells so that the accused are aware of their place on the docket, and so that people in the neighborhood can keep track of events.<sup>16</sup>

These strategies reflect a desire to open up the proceedings as well as to localize them, without having to rely on the traditional markers of authority whose symbolic weight is all but entirely lost on Times Square's prostitutes, pimps, and petty thieves.

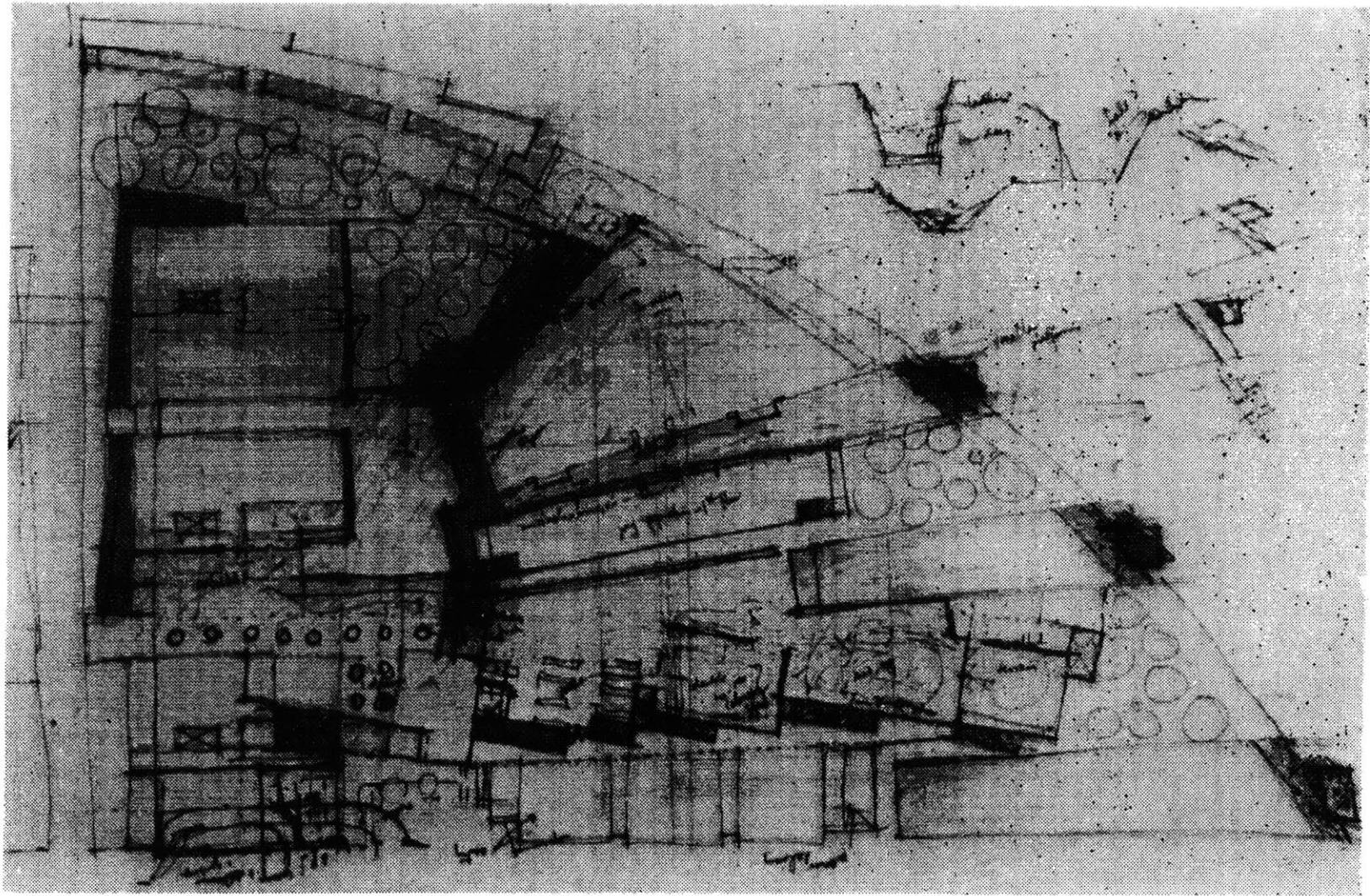


*German Parliament building in Bonn,  
Behnisch & Partner (L'Architettura May,  
1993)*

<sup>16</sup>Conversation with John Williams, an employee of the non-profit organization that is coordinating the governmental functions of the experimental court. The project was reviewed in *Wired*, March 1994.



## II BUILDING



*design sketch of ground floor plan*

## SITE

The site for the Boston Federal Courthouse is in the Fort Point Channel area of the City of Boston. A series of rivers and channels, formed from marshland and tidal flats, drain into Boston Harbor and out the Atlantic Ocean. The courthouse will be built on Fan Pier, the first of numerous piers projecting out from Northern Avenue. Directly across the Channel from the Fan Pier is the Financial District and the Rowes Wharf development. To the north, across the Harbor, is East Boston and Logan Airport. Directly to the south is a neighborhood of turn of the century brick buildings housing light manufacturing, artists' lofts, and museums. A new bridge and subway spur are under construction as part of the depression of the Central Artery.

*figure ground plan of the Greater Boston shoreline with Fort Point Channel area highlighted*





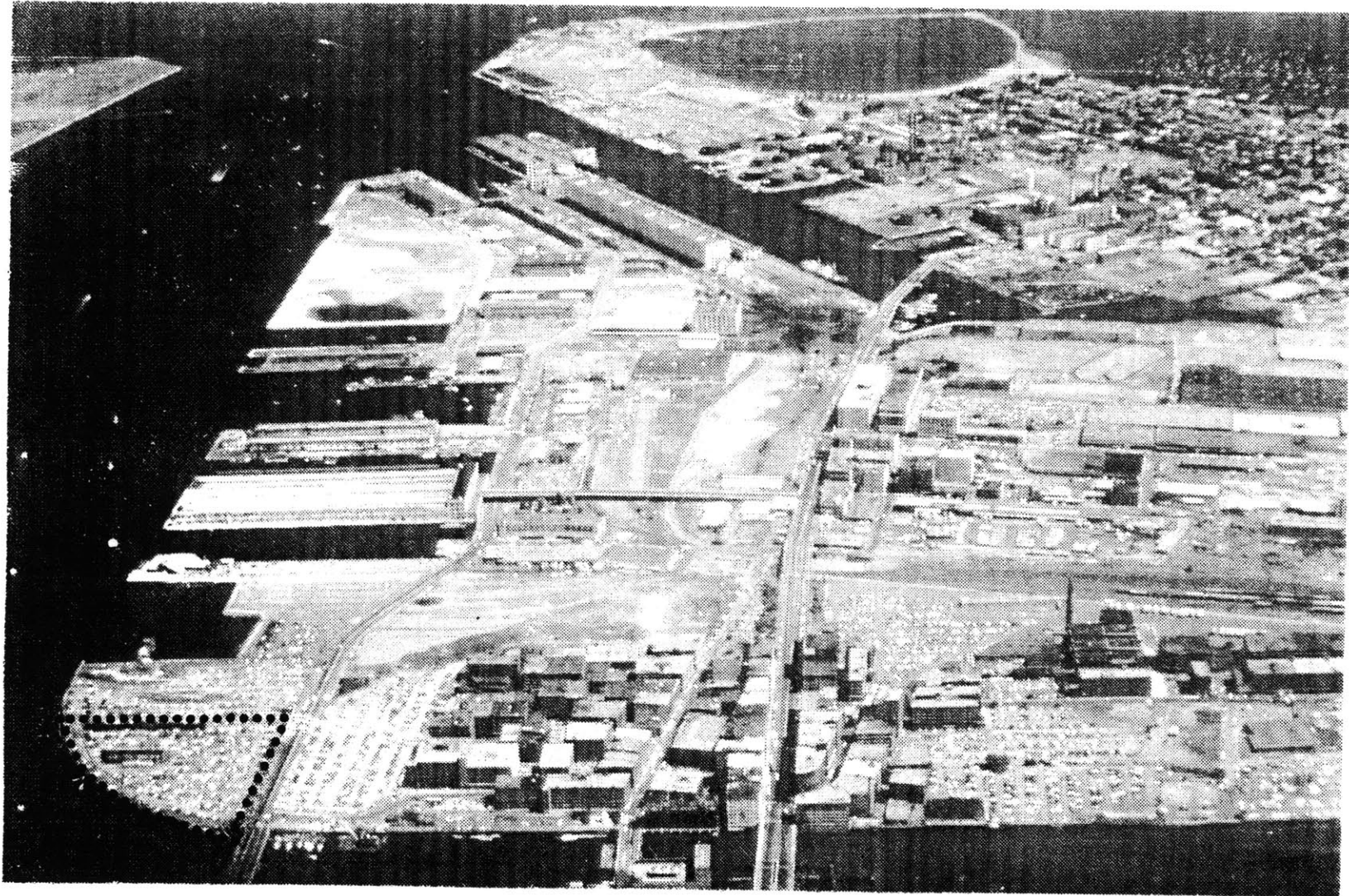


*site plan of Fan Pier, including  
design proposal*



*aerial view of Fort Point Channel and Fan Pier, looking west*

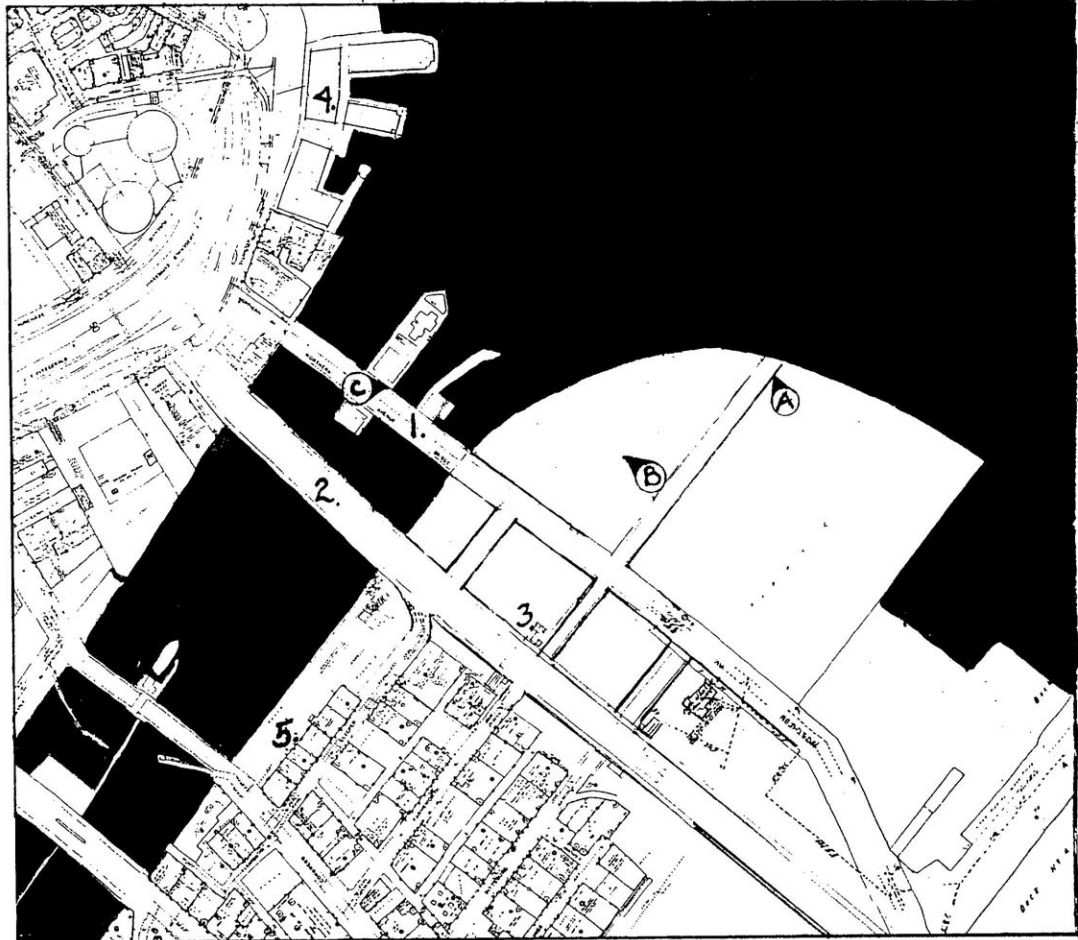


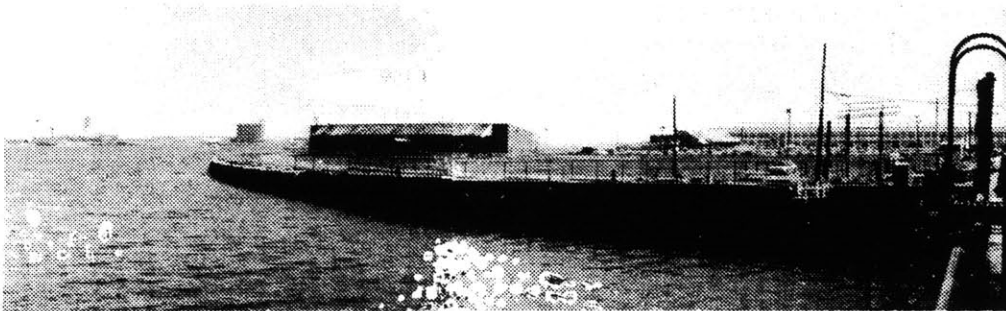
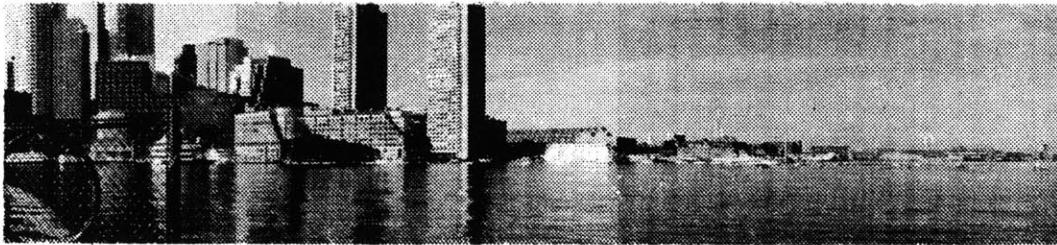
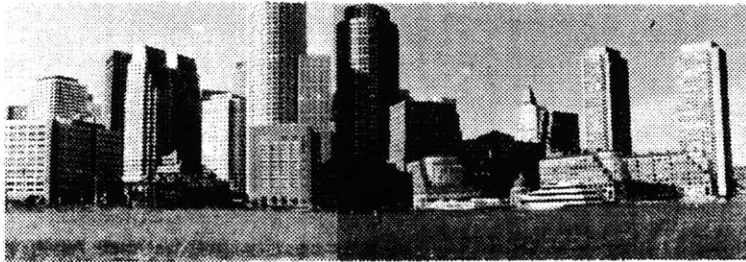


*aerial view of Boston piers, including Fan Pier, looking east*

## KEY

1. Old Northern Avenue bridge
2. New Northern Avenue bridge
3. new subway stop
4. Rowes Wharf
5. Boston Children's Museum





*A. (top) view of downtown Boston*

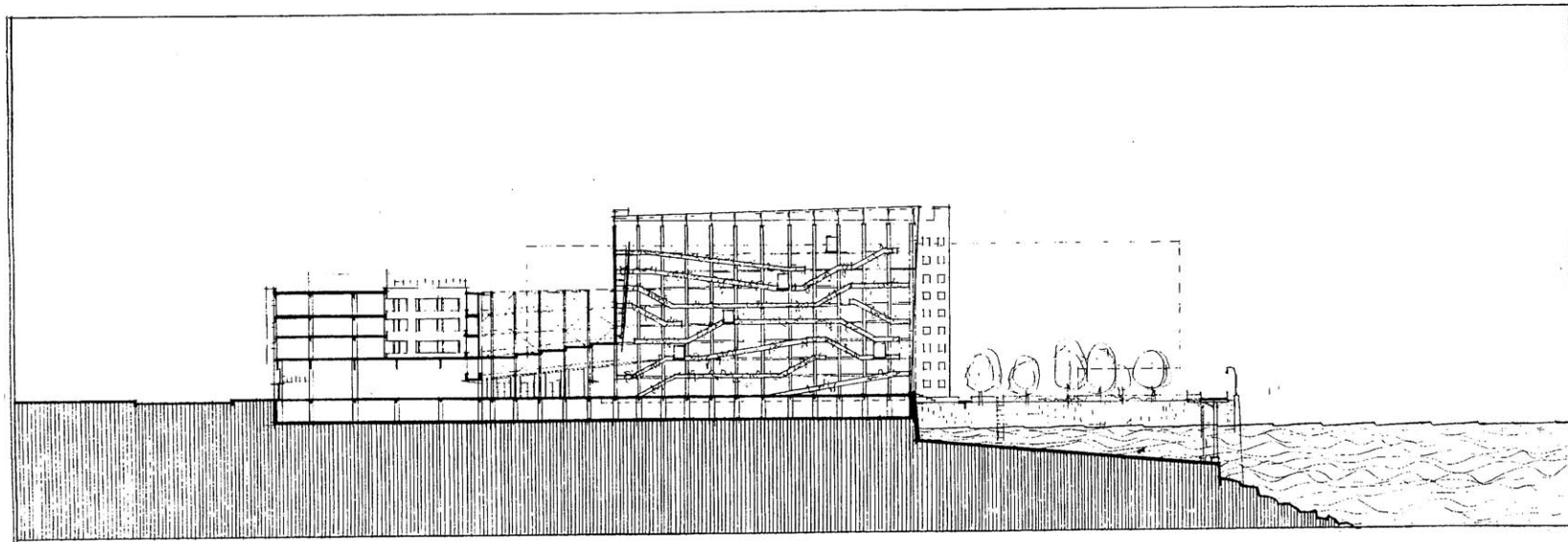
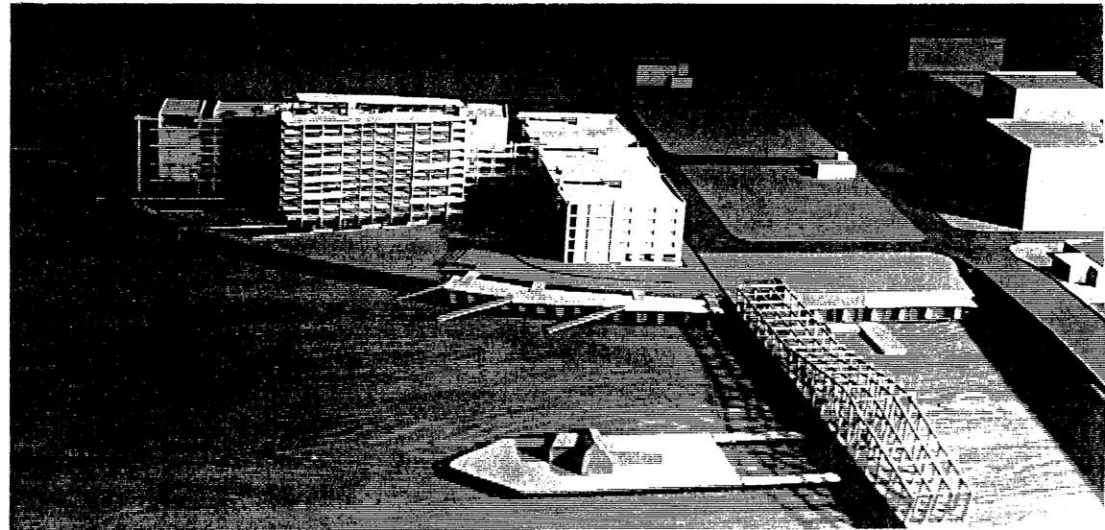
*B. (middle) view of downtown Boston and the harbor*

*C. (bottom) view of Fan Pier from the Old Northern Avenue bridge*

## COURTHOUSE

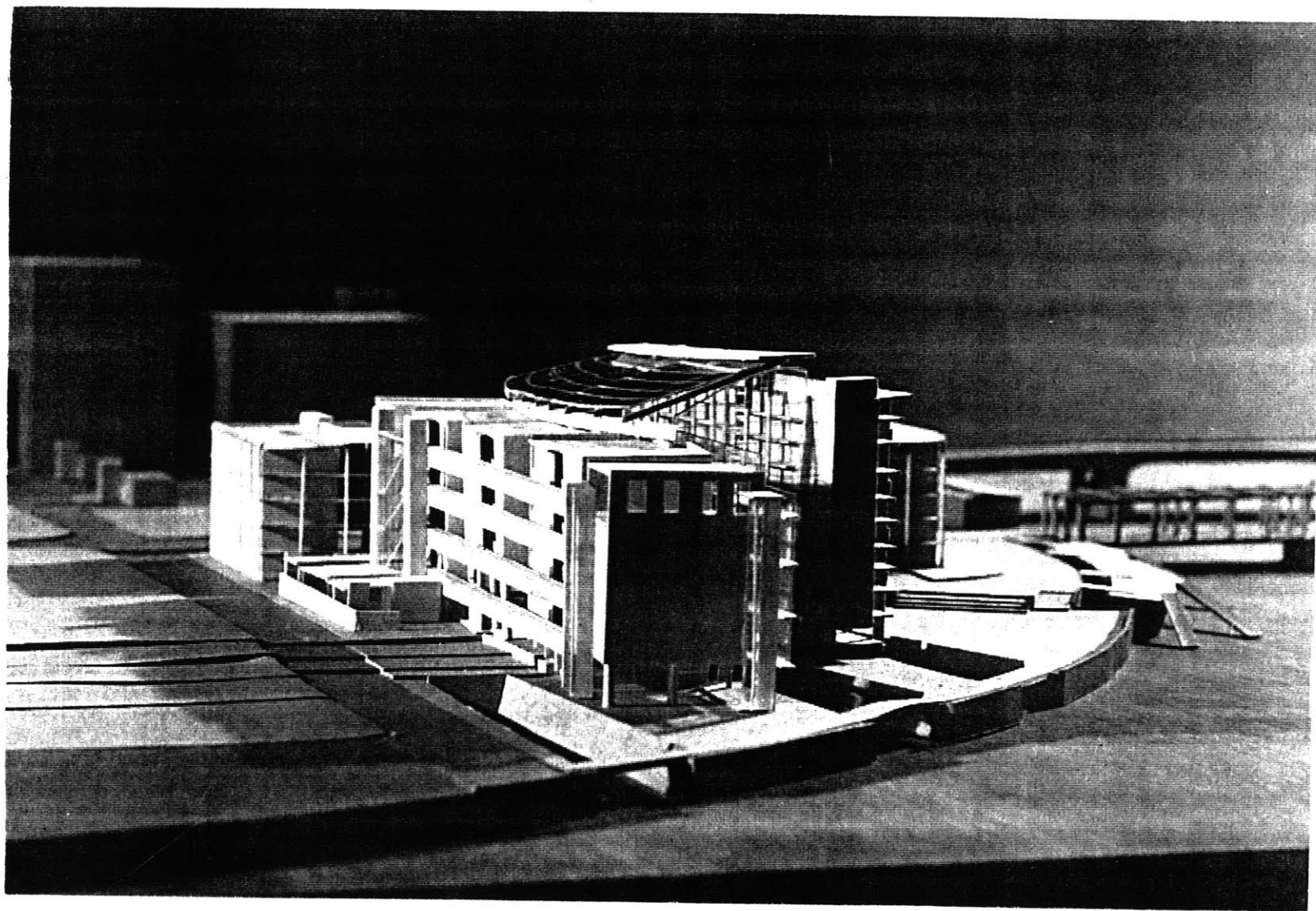
The question at stake is to make the fact that we belong to different communities of values, culture, and others compatible with our belonging to a political community whose rules we have to accept.

Chantal Mouffe

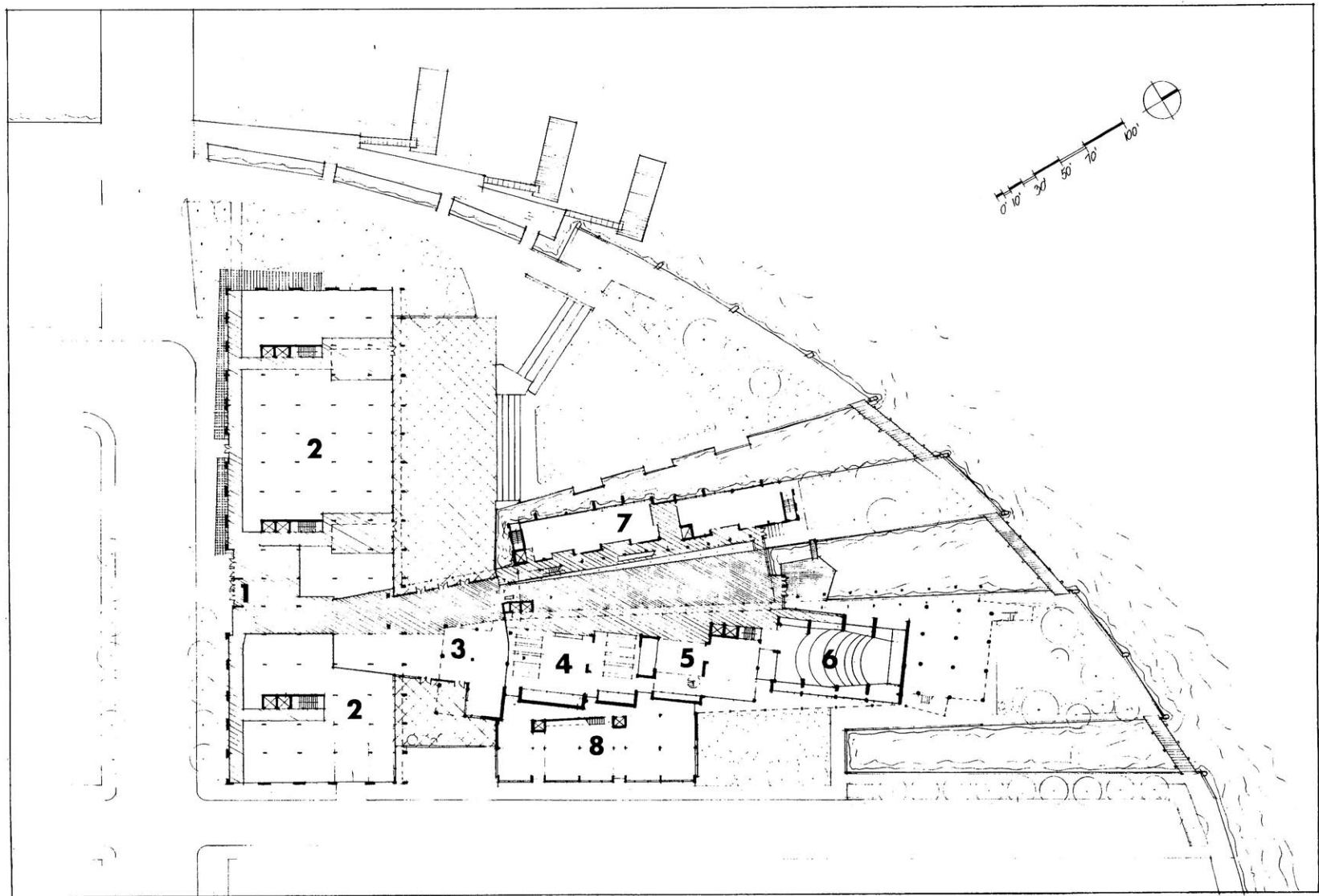


(top) final model, view from west  
(bottom) building section, looking west





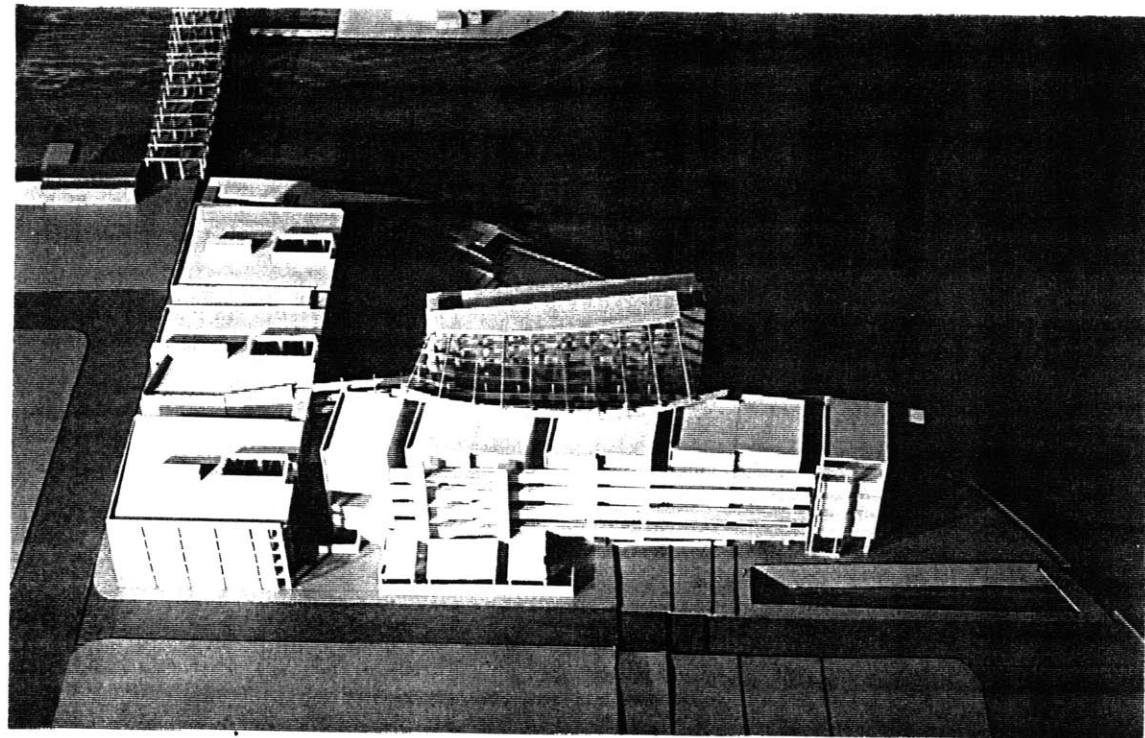
*final model, view from northeast*



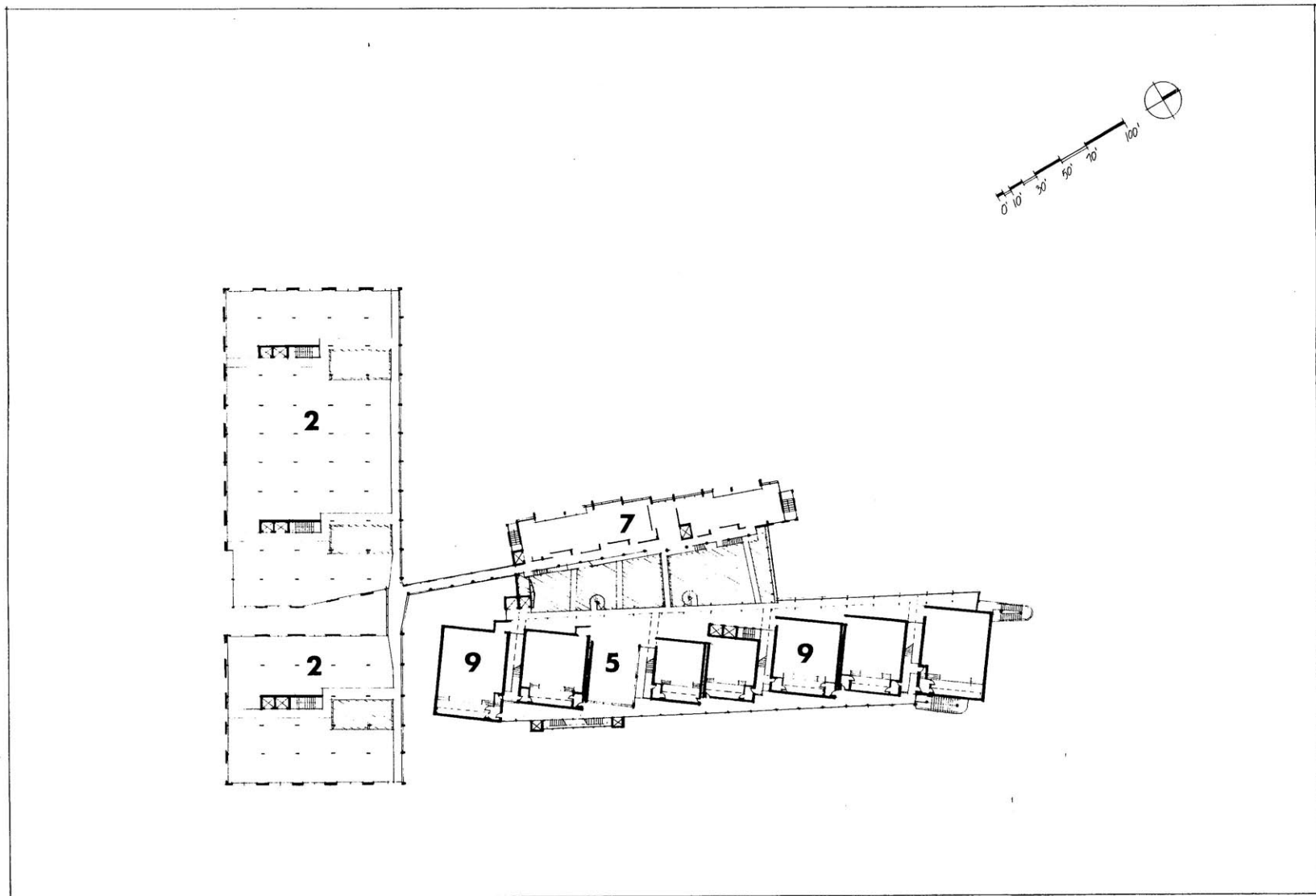
*ground floor plan*

## KEY

1. street entry
2. various service offices
3. cafeteria
4. law library
5. public lounge
6. auditorium
7. judges' offices
8. prisoner holding cells



*final model, bird's eye view from east*

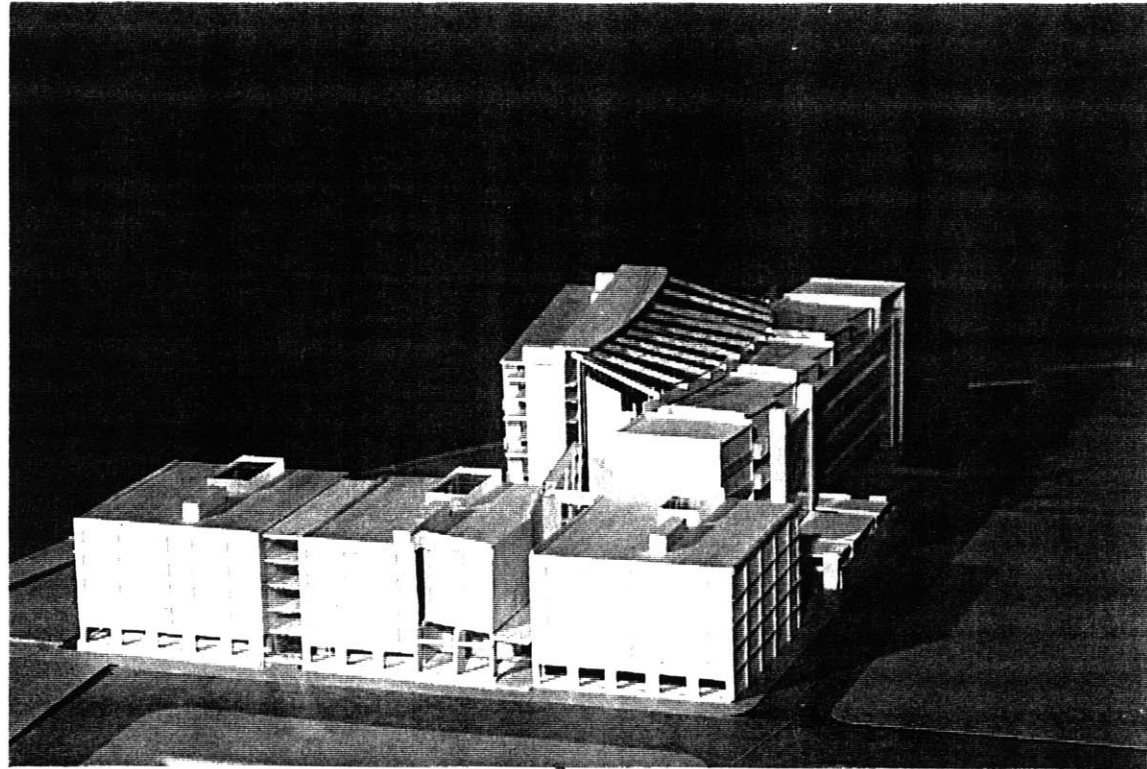


*typical upper floor plan*

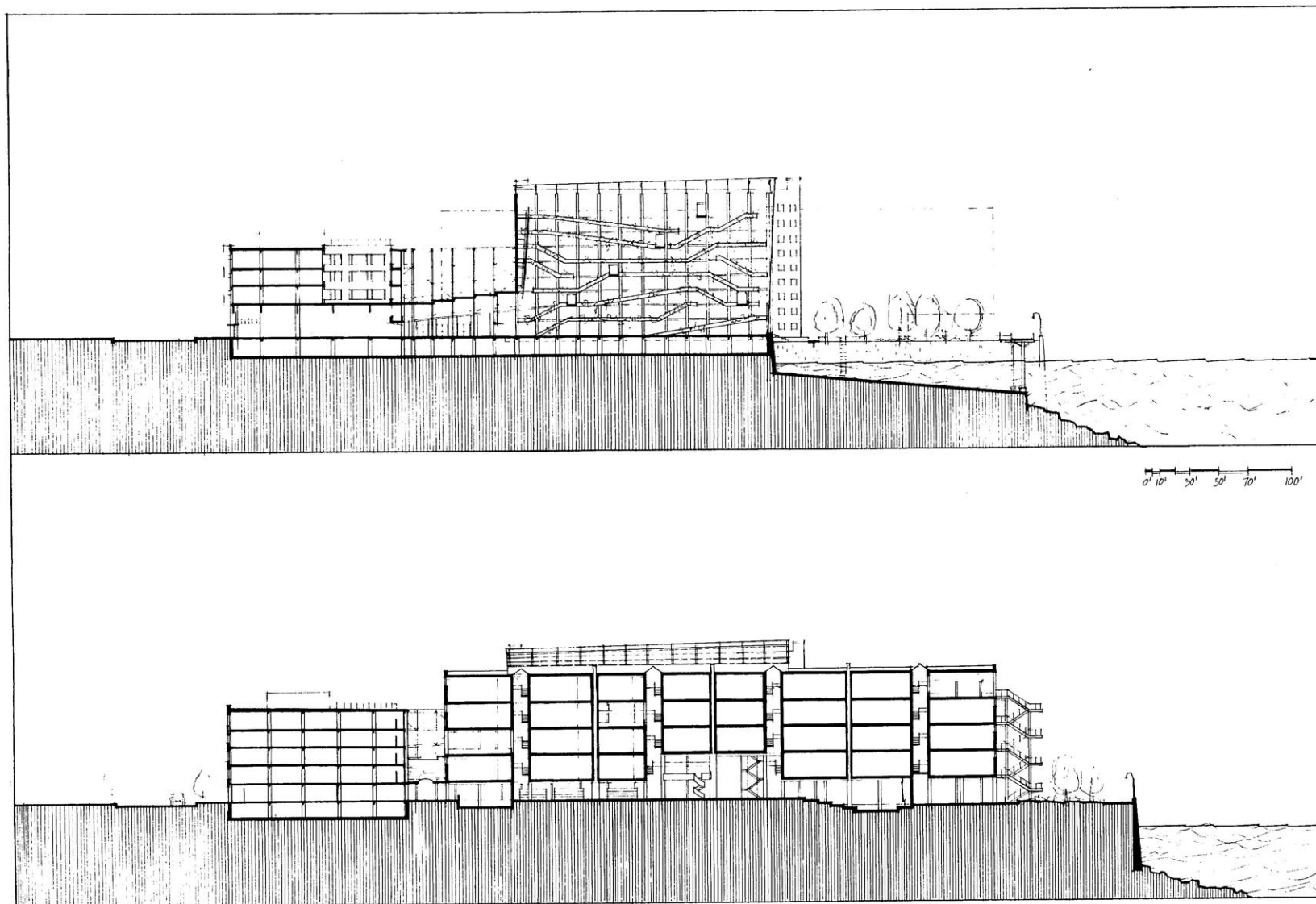


## KEY

- 2. various service offices
- 5. public lounge
- 7. judges' offices
- 9. courtrooms



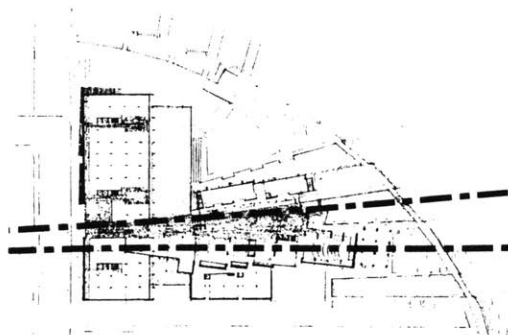
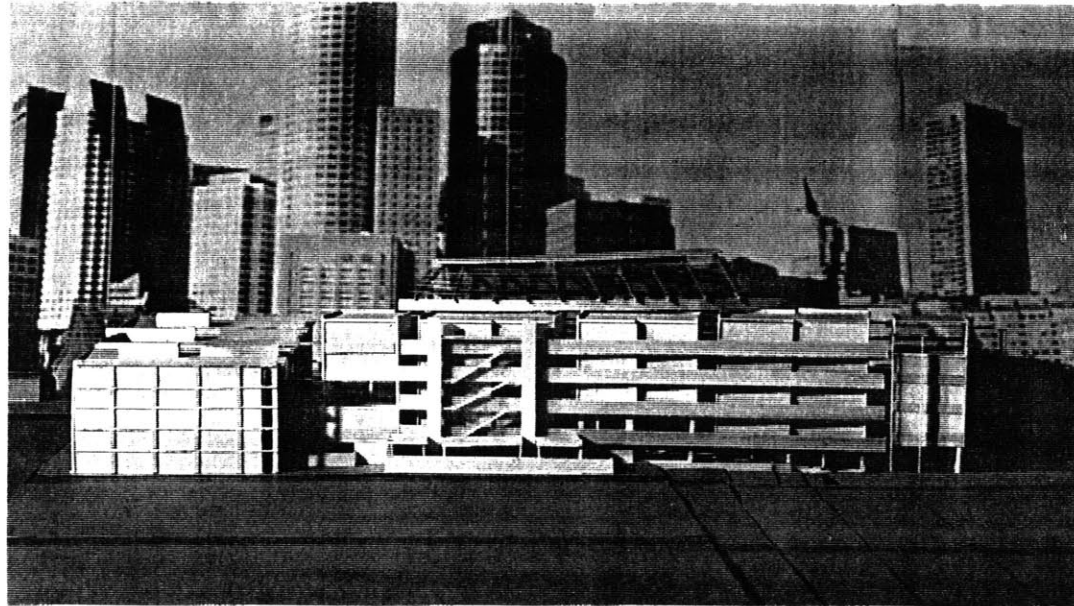
*final model, bird's eye view from south*



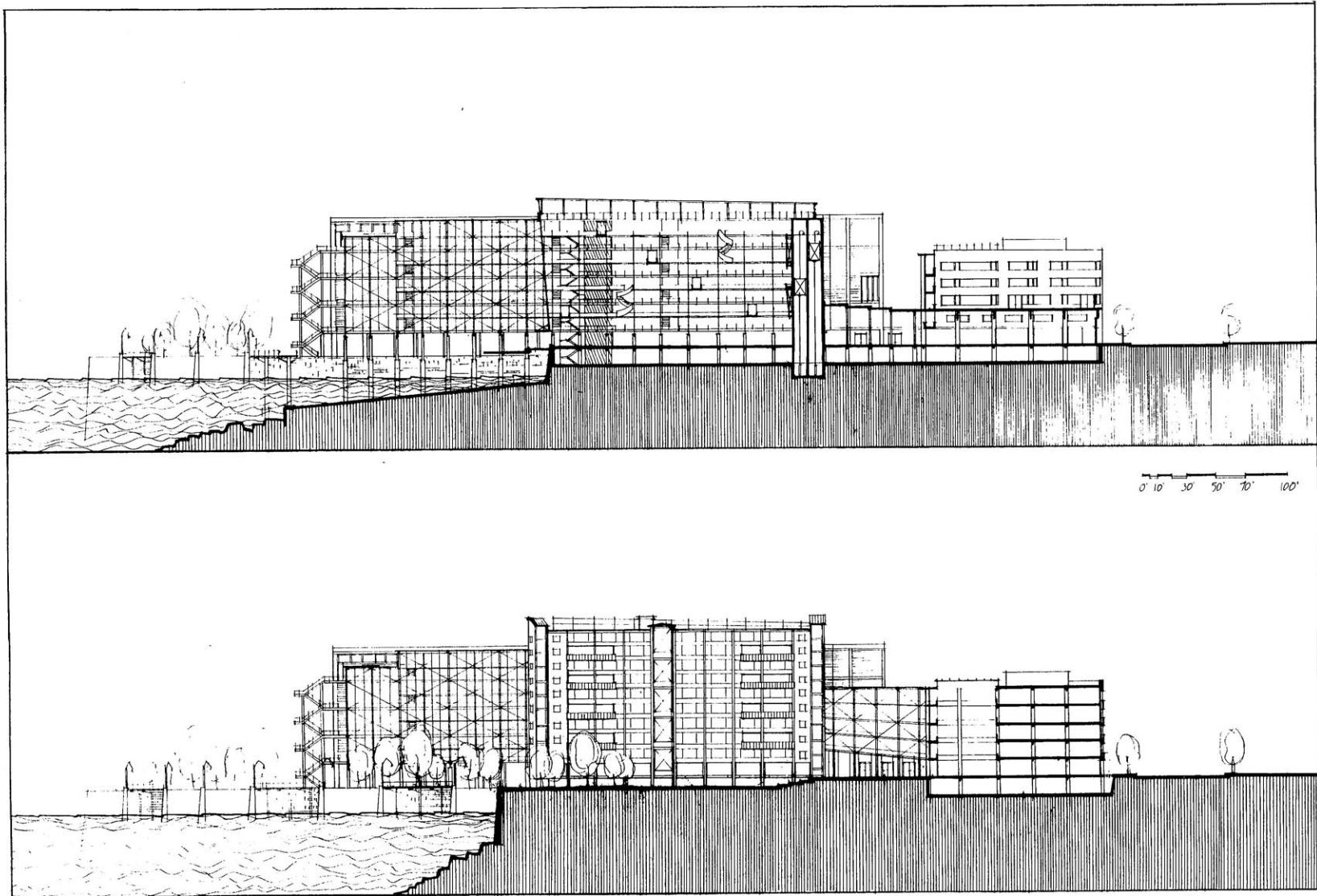
*(top) section through "interior street", looking west towards judges' offices*

*(bottom) section through courtrooms and ground level public places—cafeteria, law library and auditorium, looking west*

These sections illustrate the contrast between the more closed boxes of the courtrooms and the dynamic atrium space. Bridges, ramps and stairs transport judges and jurors through the open public realm to the relatively closed and stable courtrooms. The courtrooms are raised, like a pier, above an open datum level of public uses. The photograph shows the light structure attached to the courtrooms that serves as circulation to the prisoner holding cells.



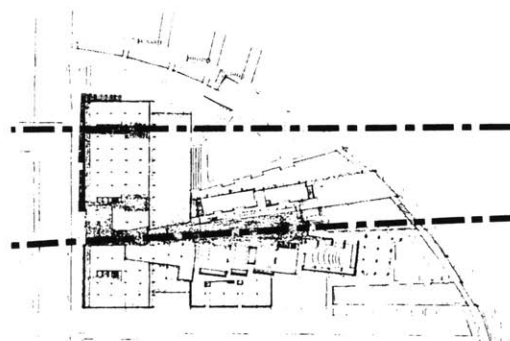
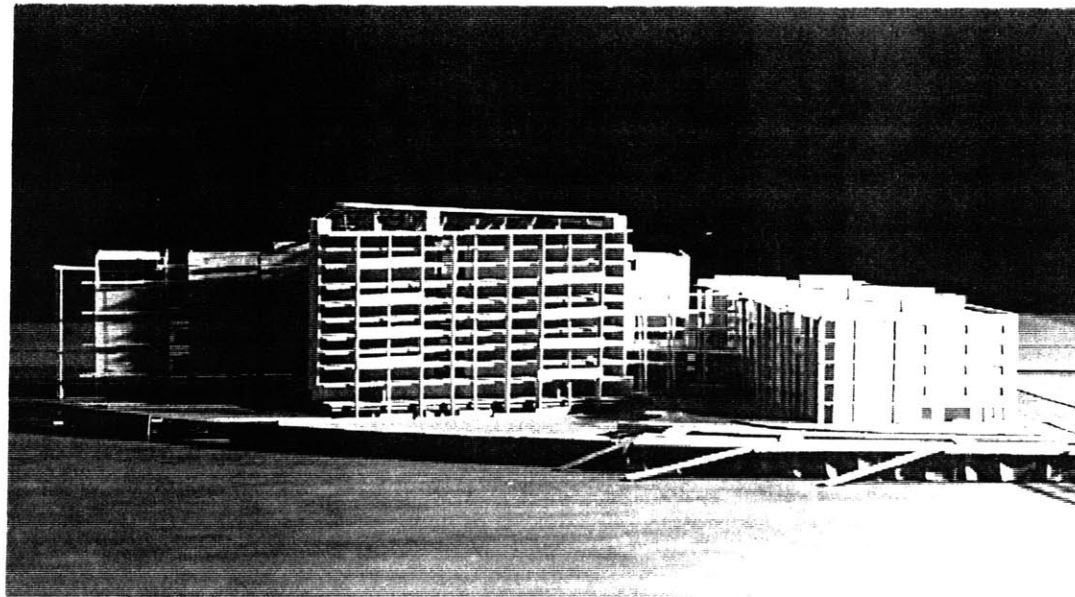
(left) key plan  
(right) final model, view from east towards the Boston skyline



*(top) section through "interior street", looking east towards courtrooms*

*(bottom) section through street-facing offices, outdoor plaza, and park with facade of judges' offices and courtrooms beyond, looking east*

In these sections and elevations the repetitive continuity of the courtrooms is revealed as a backdrop for the varied architectural expression of various elements—the interior street, the atrium space, the judges' offices and the four-story glassed bridge to the warehouse-inspired offices spaces. These high-ceilinged places contain government services associated with the judiciary such as probation, pre-trial, and the U. S. Marshal.

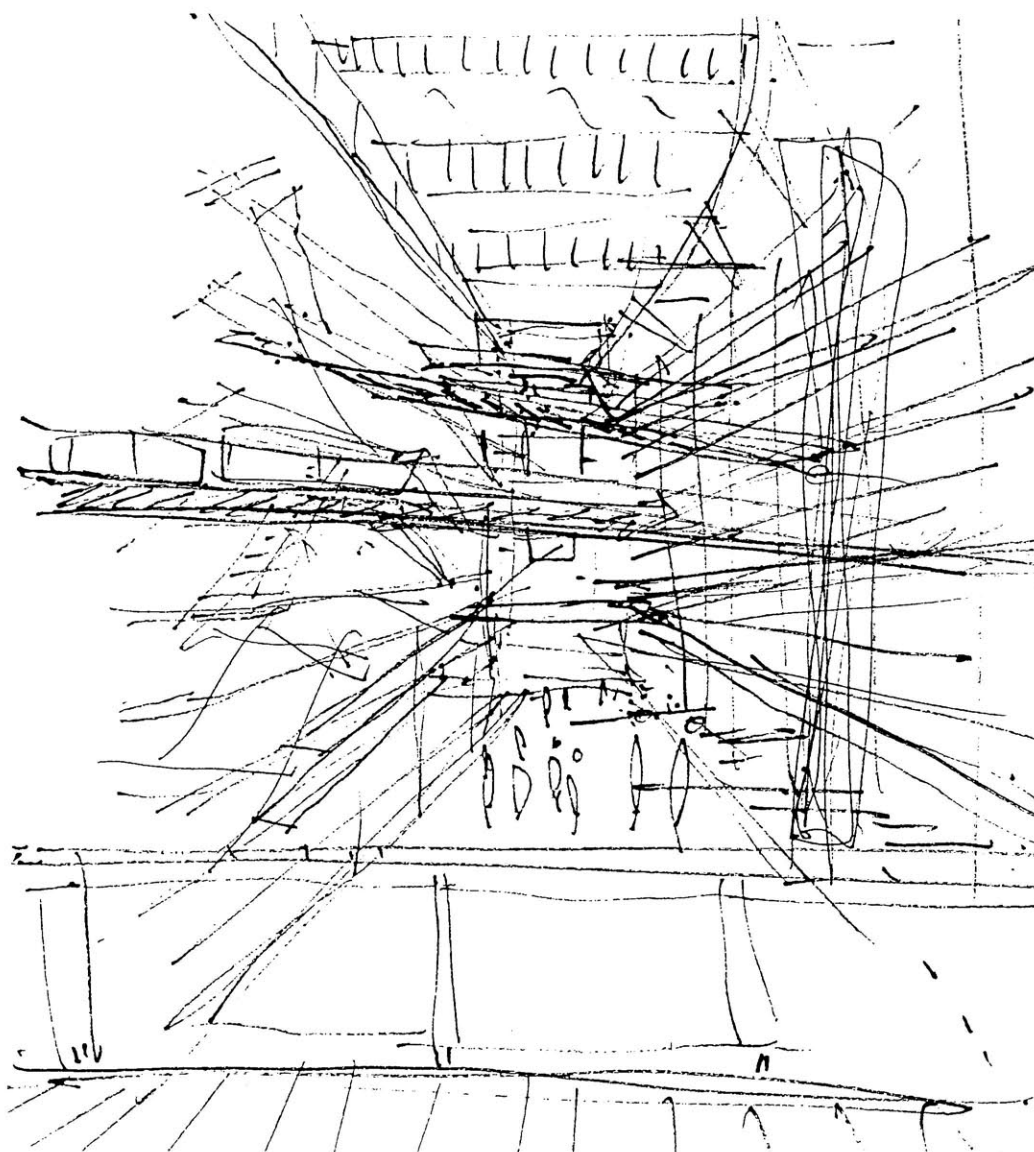


(left) key plan

(right) final model, view from west over Fort Point Channel

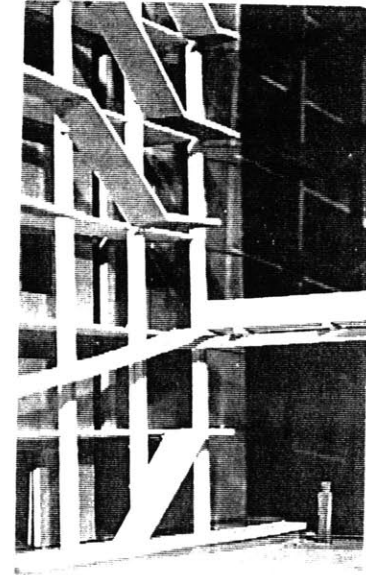
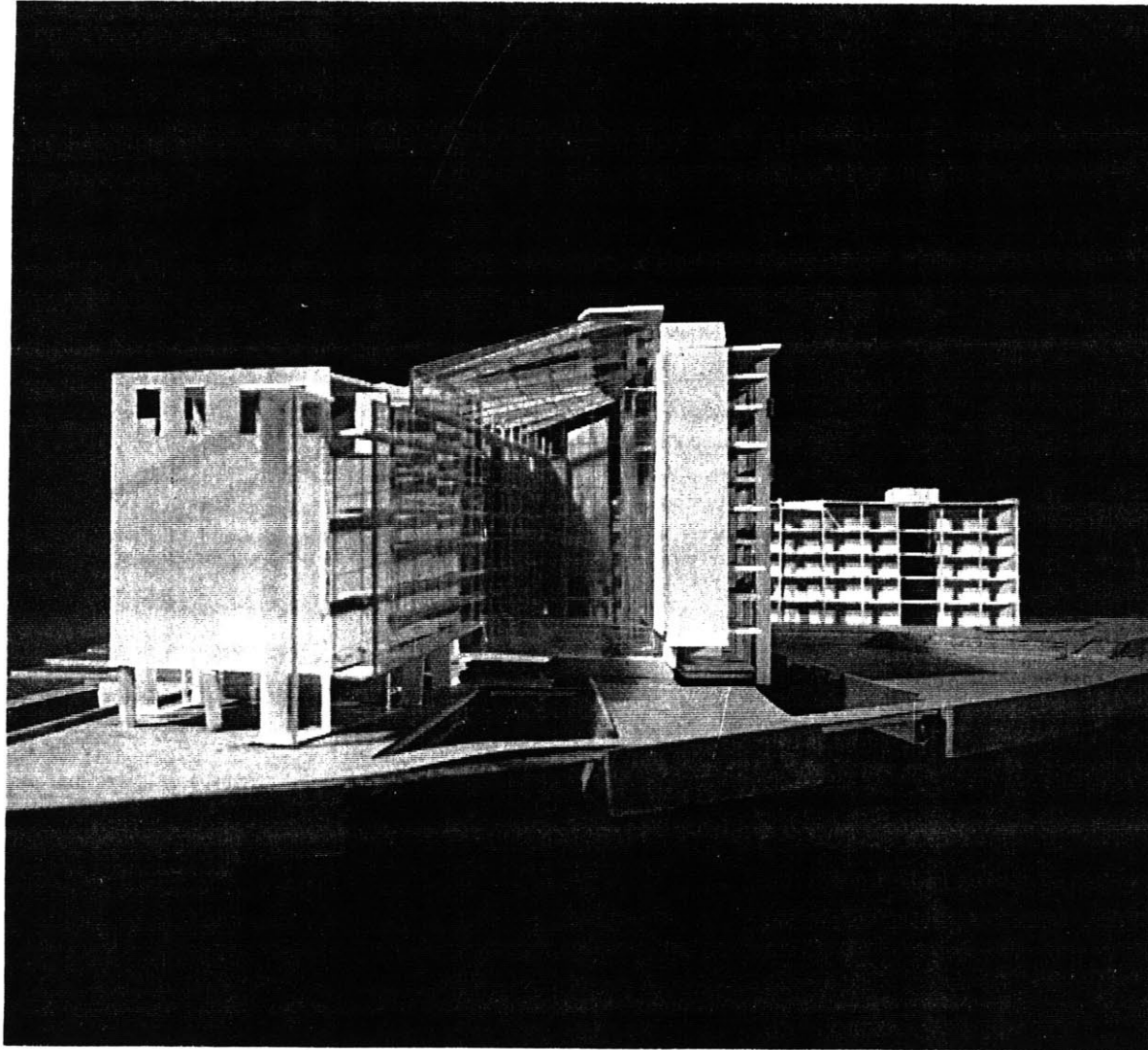
## ATRIUM

By subverting the traditional concentric organization of law courts such that the public "hall" is situated between the courtrooms and the judges' suites and jury rooms, the "private" circulation of the judges and court staff is required to pass through the public atrium space by an elaborate series of bridges, ramps, stairs, and mezzanine catwalks in order to reach the courtrooms. Visual and other sense connections are allowed while actual physical separation is maintained. The ground level of the atrium space is devoted to public use.

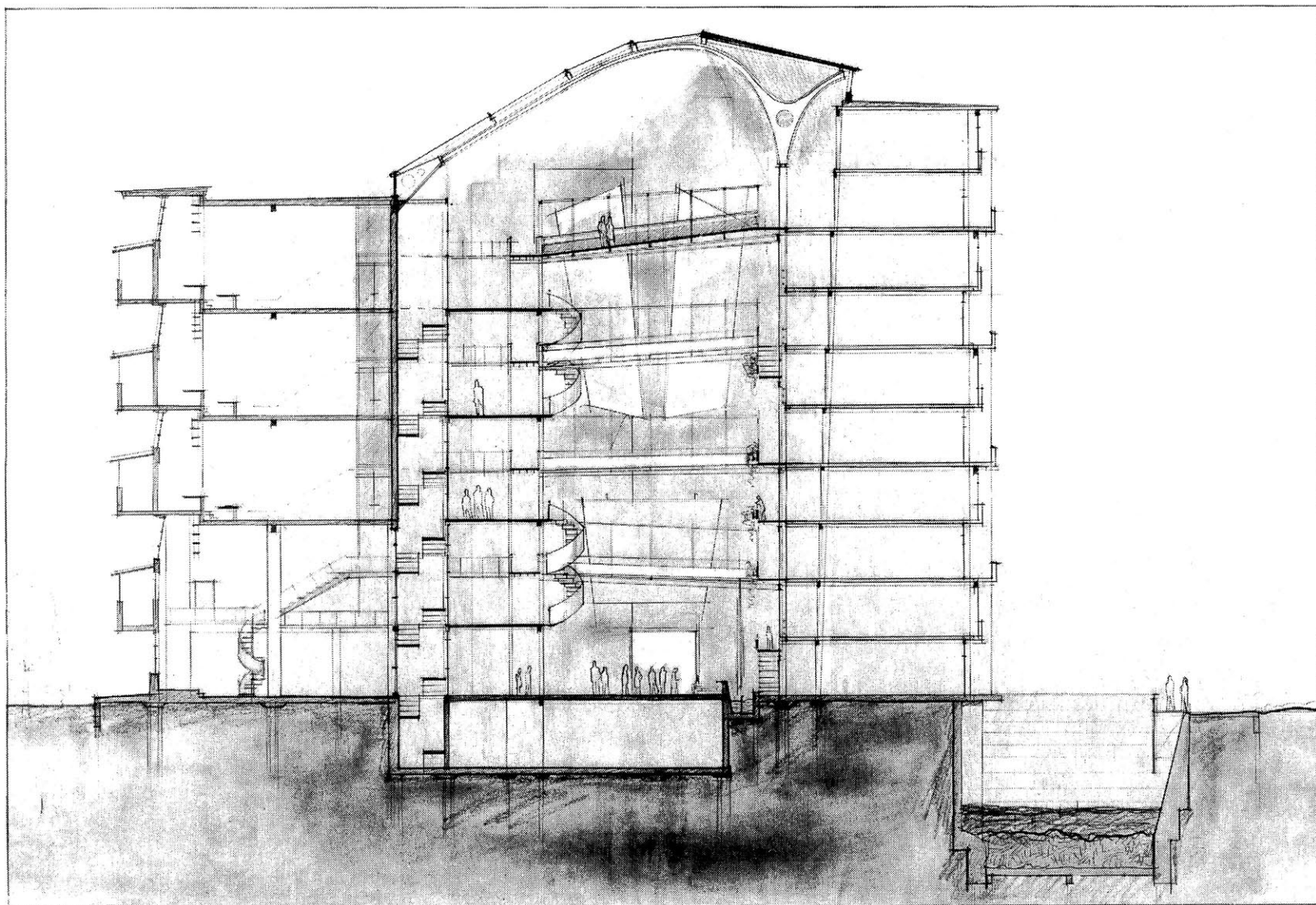


*perspective design sketch of atrium*





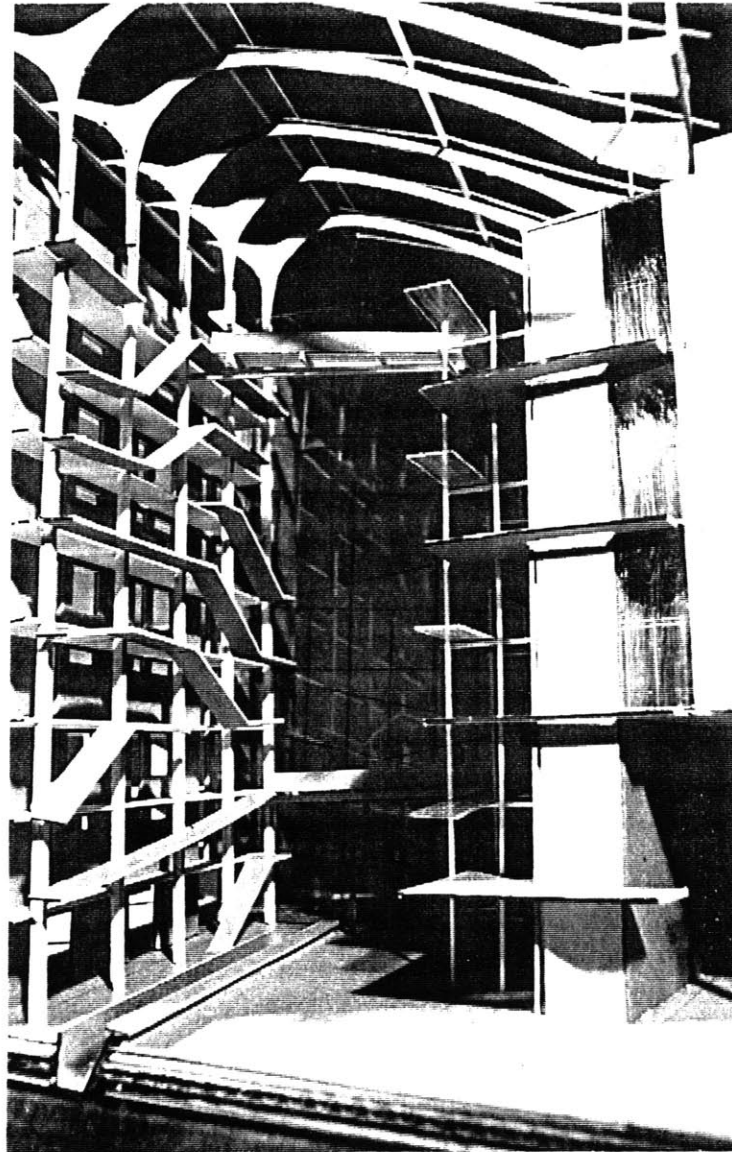
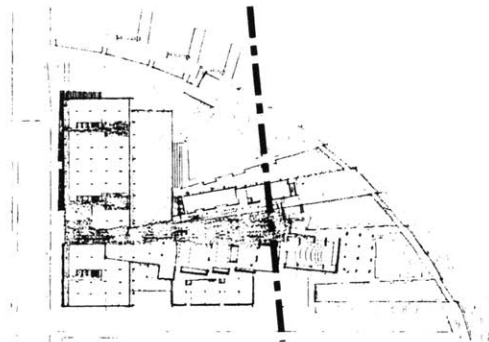
*(left) final model, view from harbor into atrium  
(right) atrium model, detail of stair, ramp, and bridge elements*



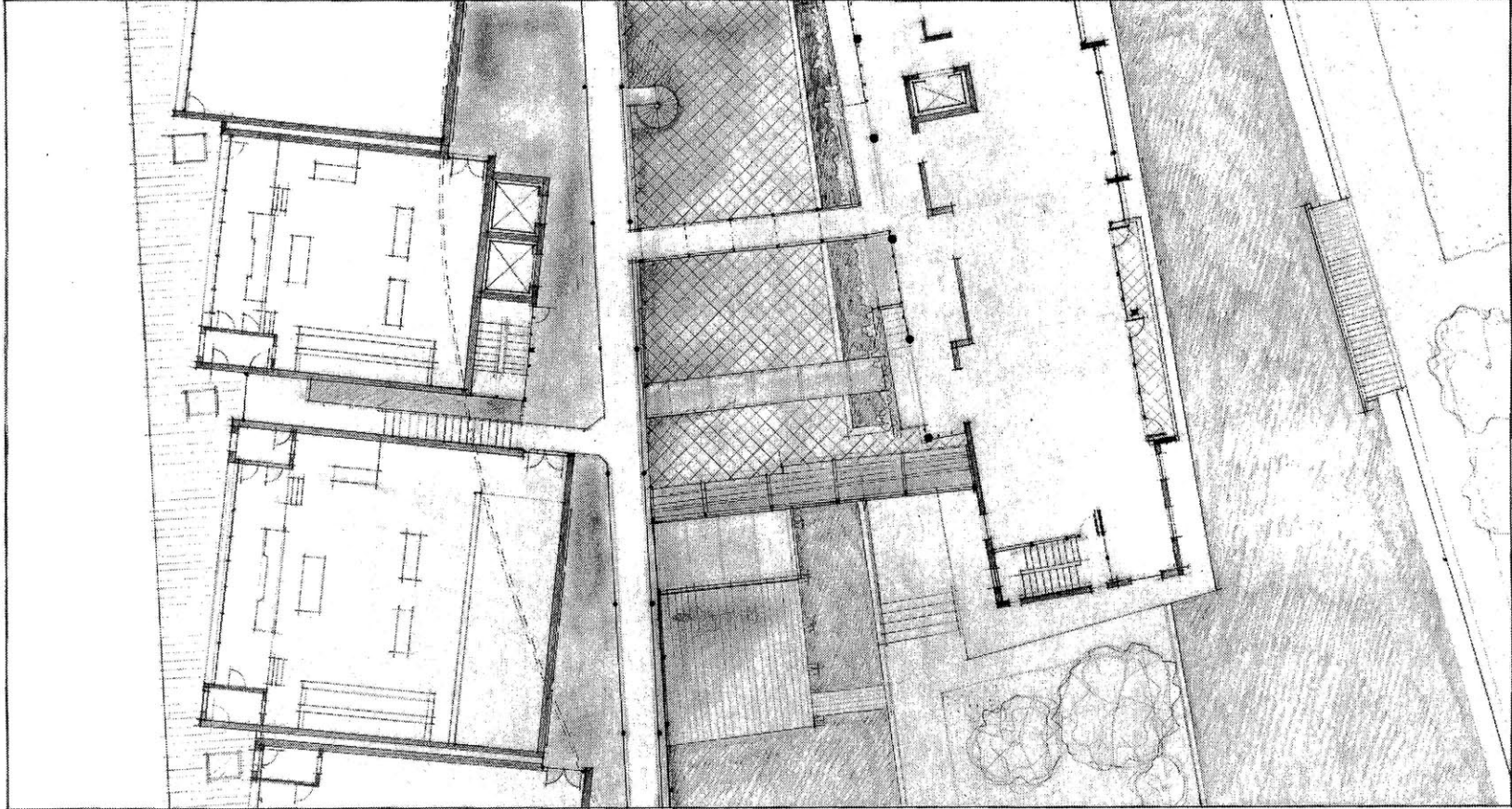
*section through atrium, facing south*



This section illustrates the openness and visual accessibility of the public areas. This openness allows for the expression of antagonism between the various elements: the public side of the courtrooms faces the block of judges' offices and jury rooms, the prisoner corridors suspended across the rear of the courtrooms have visual access through to the public lounges and atrium, and the park faces across water towards the judges' office. A skeletal roof structure, circular stairs, information screens, hanging plants, and a "water screen" of fountains further activate the place.

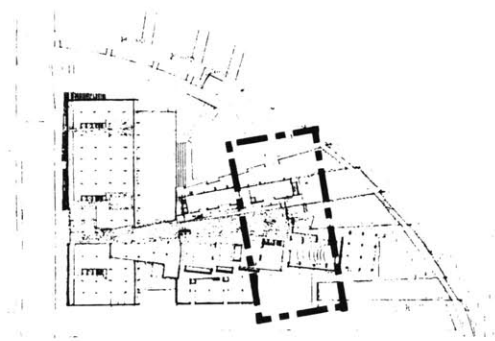
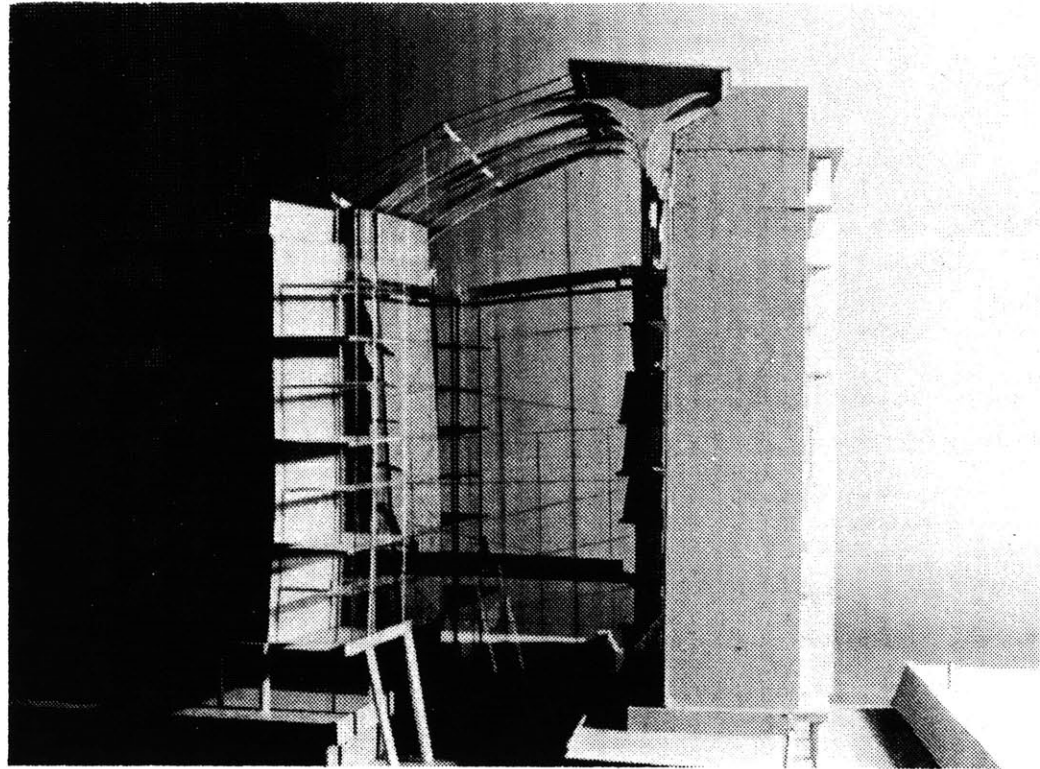


*(left) key plan  
(right) atrium model,  
looking out towards the  
harbor*



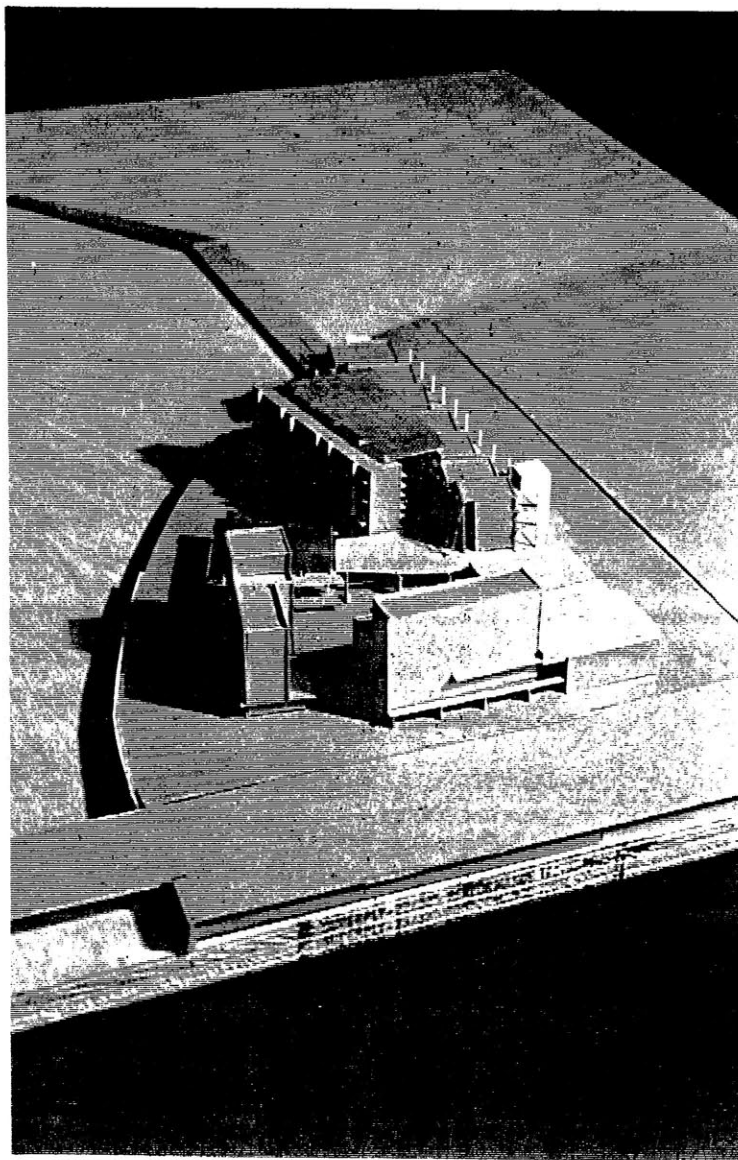
*detailed partial plan of atrium*

The organization of a typical courtroom is visible in this partial plan, taken at the sixth floor level. Clearly articulated are the various circulation routes of the different participants in the courtroom drama—judge and jury, counsel, defendant and plaintiff, and the general public. Additional design elements are illustrated, such as clerestory windows in the courtrooms, balconies for the judges, and platforms that project out over the water in symbolic confrontation with the court.

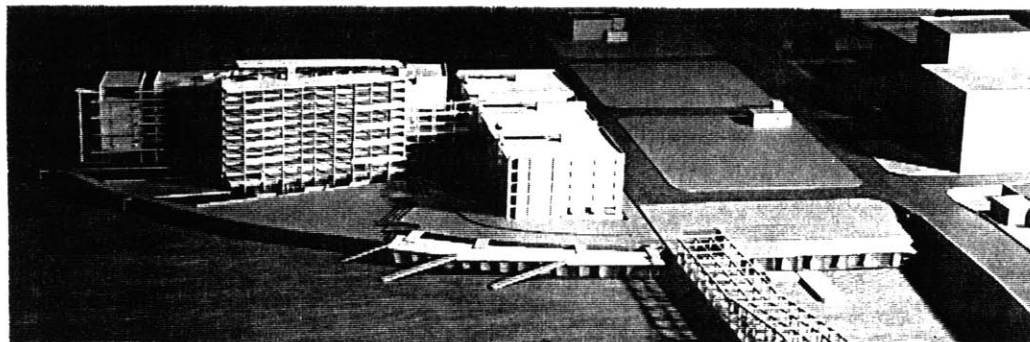
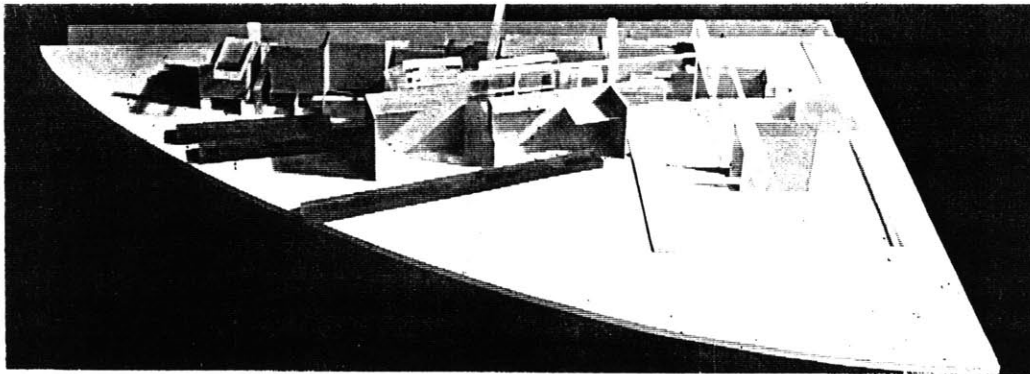
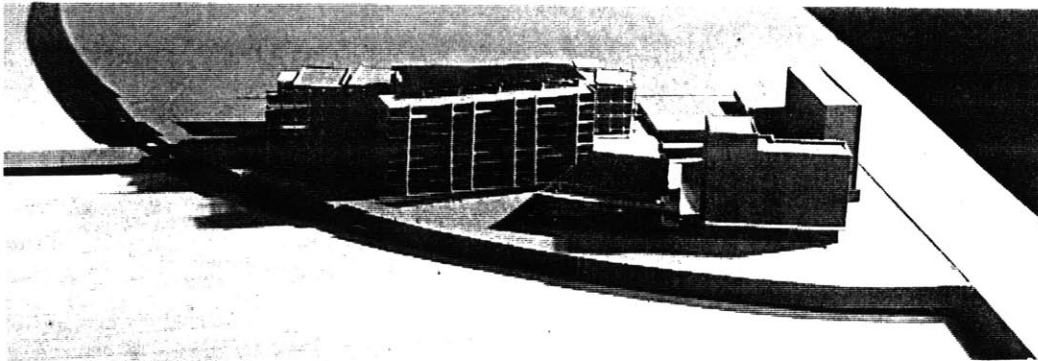


(right) atrium model, overall view from the direction of the harbor  
(left) key plan

## DESIGN PROCESS



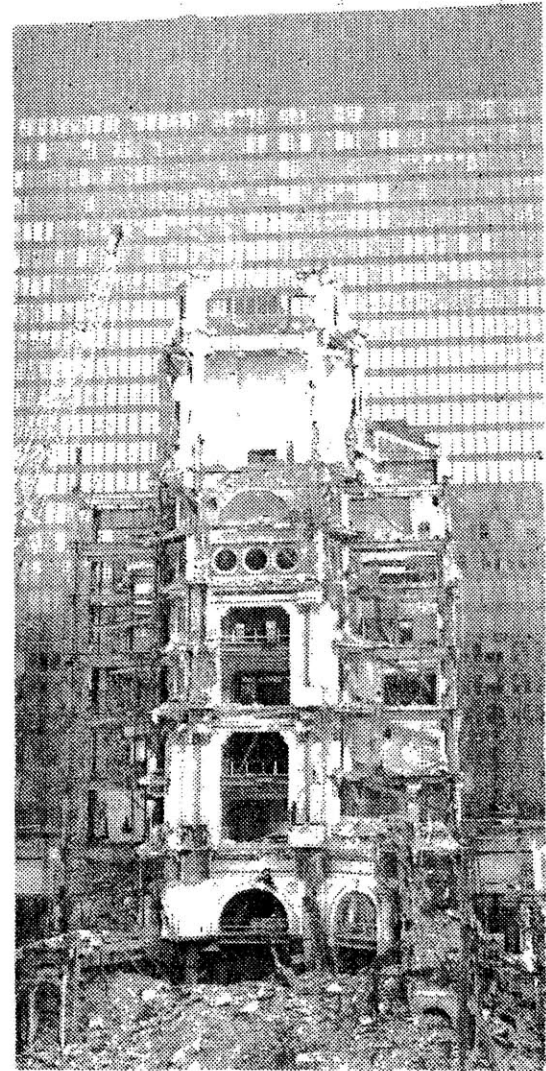
*study model*



*(top) study model  
(middle) conceptual model of public places  
(bottom) final model*



*demolition of Henry Ives Cobb's turn-of-the century federal courthouse in Chicago. In the background is the Dirkson Federal Courthouse by the firm of Mies van der Rohe (Craig, p.437)*



## CIRCULATION AS CONFRONTATIONAL EXCHANGE

The courthouse as a “type” is unique in the complex requirements for circulation. Vastly different user groups—judges, prisoners, counsel, the general public—are supported by separate systems of circulation that finally meet only within the courtroom. Courthouse designs that managed to solve the planning puzzle of maintaining distinct separations without awkwardness became models for subsequent emulation. In smaller courthouses (such as the archetypal county courthouse of the now mythical American small town), overlap of circulation inevitably occurred, though traditionally the goal has been to separate the different user groups. In tracing the development of courthouse precedent over the last 170 years, beginning with John Soane’s Law Courts at Westminster in London, I have observed the codification of the notion of completely separating circulation systems, which are then organized in a concentric manner. The few exceptions include Gunnar Asplund’s Gothenburg Law Courts rebuilding and extension of 1934. Henry Cobb’s design for the Boston Federal Courthouse is certainly no exception to this strictly honored precedent, though not quite so rigorously concentric as the strict follower of precedent would require. With the support of numerous observations about the political philosophy of democracy, I have consciously set out in my design to transform the precedent of separate circulation and concentricity.

In undergoing this transformation, I have followed the systematic procedure outlined by Stanford Anderson in following Karl Popper’s epistemology (see chapter 3.) The first task is to understand the tradition in question, in this case the organization of circulation. In John Soane’s Law

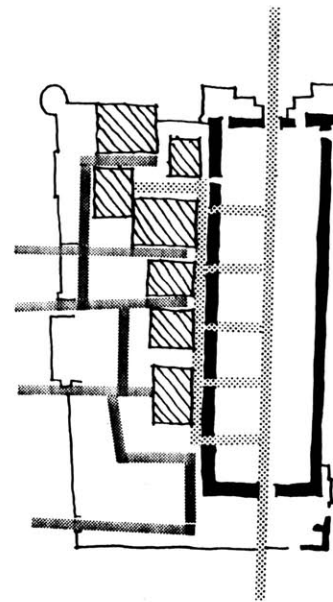
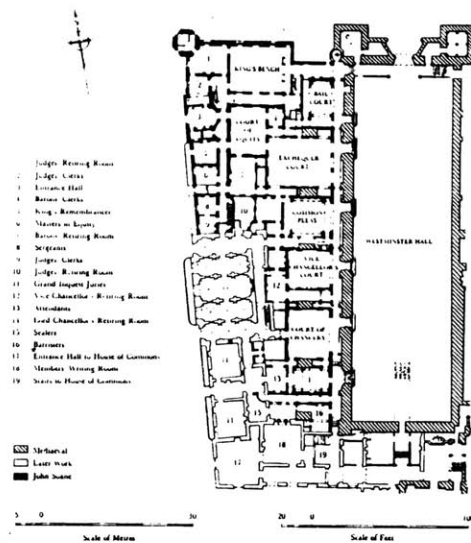
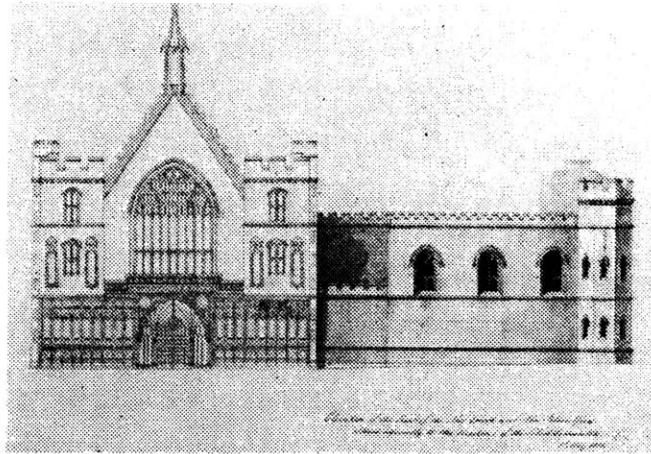
Courts at Westminster, which were designed as an addition to an existing structure, the public enters a large hall to which the courtrooms are attached on one side. Clients met with counsel for final preparations before the commencement of court proceedings in this vast space. Little accommodation was made for privacy; one can imagine huddled groups lining the edges of the hall. Serving the courtrooms is a series of small clerk's offices and snaking corridors.<sup>1</sup>

Soon after completion, this facility was deemed inadequate for the efficient dispensation of justice. Smaller courts were scattered all over London, the system was plagued with delays, and there were calls for centralization of the court system. In addition, the judicial system in England was in need of extension reformation. Two parallel systems were in operation, the common law courts and the equity courts, and it was up to the petitioner to decide which court to submit his fate to, as each operated under a different system of precedent and yet were authorized to decide the same types of cases. And the decisions, though inconsistent, were final; a court of appeals was not even created until 1851. The public disgust with the existing system was expressed by Charles Dickens in *Bleak House*,

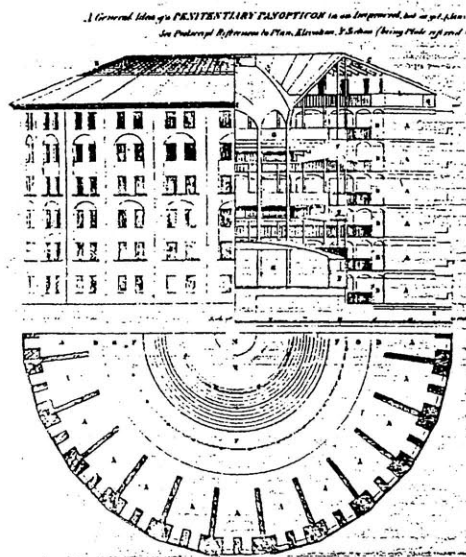
To see everything going on so smoothly, and to think of the roughness of the suitors' lives and deaths; to see all that full dress and ceremony, and to think of the waste, and want, and beggared misery it represented; to consider that, while the sickness of hope deferred was raging in so many hearts, this polite show went calmly on from day to day, and year to year, in such good order and composure; to behold the Lord Chancellor, and the whole array of practitioners

<sup>1</sup> Much of the descriptive and factual information in this section was culled from David B. Brownlee, *The Law Courts: The Architecture of George Edmund Street*, The Architectural History Foundation/MIT Press, Cambridge, MA, 1984.





(top and bottom left) John Soane, Law Courts at Westminster, London, 1823-26 (Brownlee, The Law Courts, p.48)  
 (bottom right) circulation diagram: dark screen represents "private" circulation and light screen is for "public"



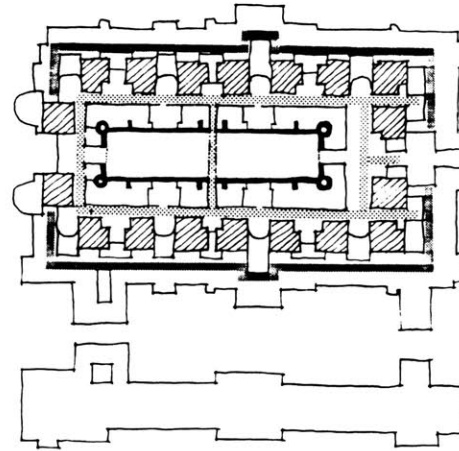
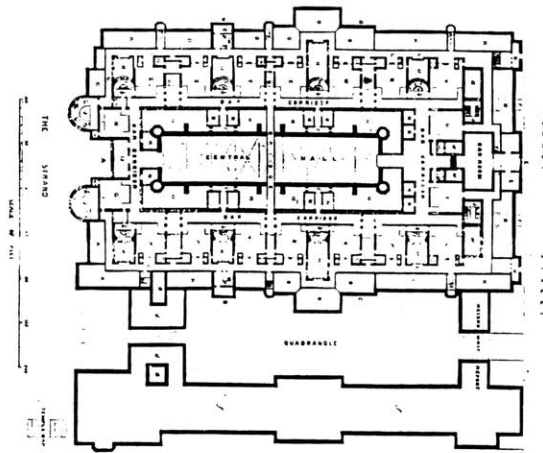
Jeremy Bentham, general scheme for the Panopticon (photocopy from Beinart lecture notes)

<sup>2</sup> The Benthamites, named for their primary figure, Jeremy Bentham, figured substantially in the move for institutional reform. Bentham's Panopticon, a design for an "improved" prison in which prisoners are isolated and arrayed in a circle around a central guard post for easy surveillance, has been discussed by Foucault and others as an example of the evils of Enlightenment rationalism. Bentham's proposal supported the then unpopular notion that the rehabilitation of criminals was possible.

under him, looking at one another and at the spectators, as if no one had ever heard that all over England the name in which they were assembled was a bitter jest; was held in universal horror, contempt, and indignation: was known for something so flagrant and bad, that little short of a miracle could bring any good out of it to any one.

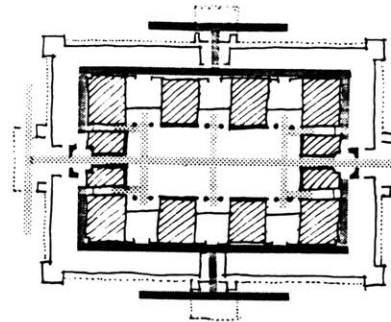
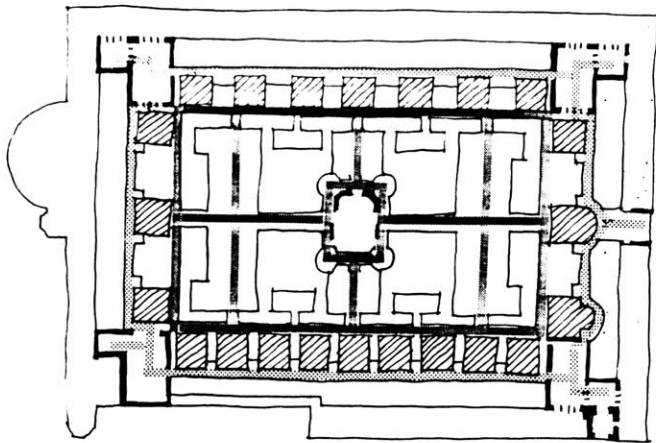
The calls for political reform were coupled with a movement to build new law courts.<sup>2</sup> The first proposals were made by Charles Barry in 1840 for a generous site in Lincoln's Inn Fields. After a long struggle in Parliament for appropriate funding, a competition was finally organized in 1865 and was won by George Edmund Street.

The design that was finally adopted for the reformed Law Courts of London, completed in 1871 and constructed over the next decade, reflects the desire for centralization and systemization. The plan organization, which owes much to the competition entry of Charles Barry, is concentric, though slightly weighted towards the main entry on the Strand. In the center is the aptly named Central Hall which is fully open to the general public. At a higher floor level is a ring of circulation consisting of corridors and a bridge over the Central Hall. This ring serves as access to the courtrooms for lawyers, clients, and juries. An outer ring of circulation that effectively sandwiches the courtrooms serves as access for judges and court staff. Breaking with the centralized organizations so consistently recurring in the various competition designs (because of a change to a less generously sized site), Street designed a quadrangle to one side, around which additional office space and records storage was placed.



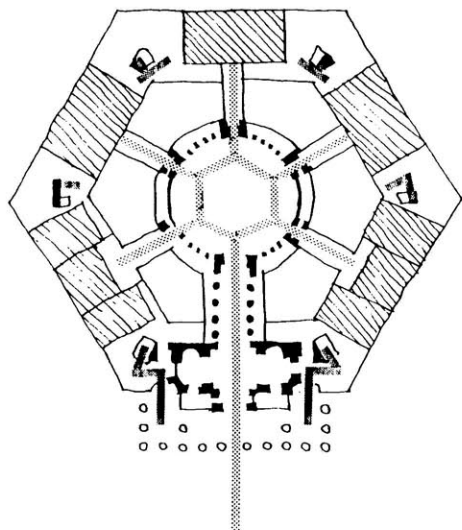
(left) G. E. Street, the Royal Courts of Justice, London, 1870's (Brownlee, The Law Courts, p.215)

(right) circulation diagram of Street's final plan: dark screen represents "private" circulation and light screen is for "public"



(left) circulation diagram of Royal Courts competition entry by William Burges, note inversion of typical concentric organization

(right) circulation diagram of early Royal Courts proposal by Charles Barry

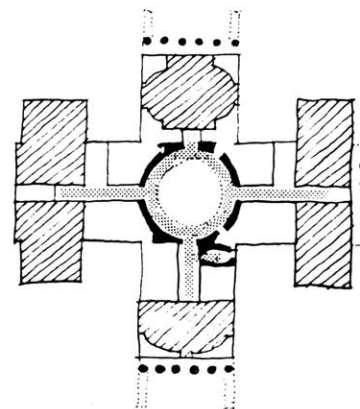
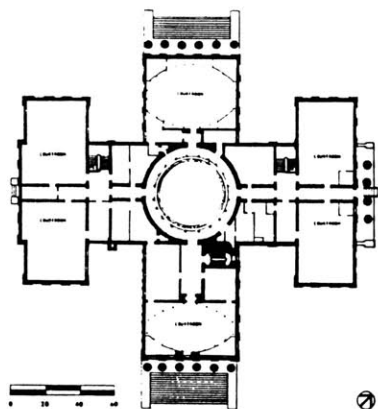


*circulation diagram of New York County Courthouse by Guy Lowell, 1913-27: dark screen for "private", light screen for "public"*

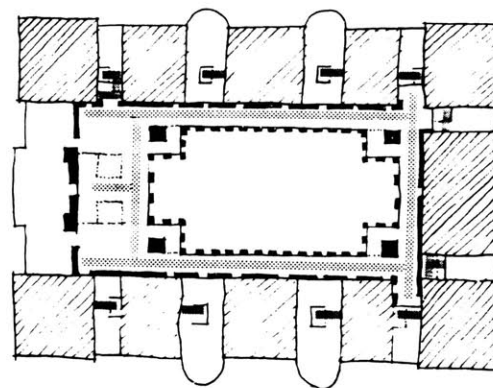
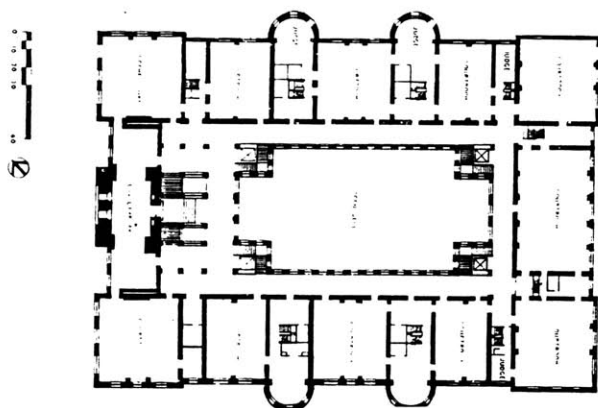
Henry Hobson Richardson was clearly influenced by Street's design of 1871 in his design for the Allegheny County Courthouse in Pittsburgh, built in 1884. Freely borrowing from the gothic tradition in external expression, Richardson employed a concentric organization for the interior. As this building is considerably smaller and less grand than the London Law Courts, the Central Hall is reinterpreted as an open light well. The judge's circulation is reduced from a continuous outer ring to vertical stairs, though still kept entirely separate from the inner public ring. By contrast, the Old St. Louis Courthouse, constructed in the early part of the century prior to the developments in England, has a single system of circulation, with anterooms to accommodate private meetings.

The precedent of concentric organization was brought to a new level of rigor by Mies van der Rohe in the design of the Dirksen Federal Courthouse in Chicago 1965. In this high-rise tower, the courtrooms are completely enclosed. They are surrounded by a ring of circulation consisting of a public corridor serving the front entries and a private one serving the rear entries, which is then surrounded by an outer ring of offices and meeting rooms. This relentlessly simple plan is repeated on numerous floors. Many other recent courthouses conform to the concentric circulation precedent, with minor variations such as the linearity of Frank Lloyd Wright's Marin County Civic Center, the sectional complexity of Paul Rudolph's Orange County Government Center, and the linearity combined with sectional complexity of Arthur Erickson's Vancouver Law Courts.

The Gothenburg Law Courts of Gunnar Asplund are a major exception to the precedent I have thus far mapped out. The courthouse is separated into two

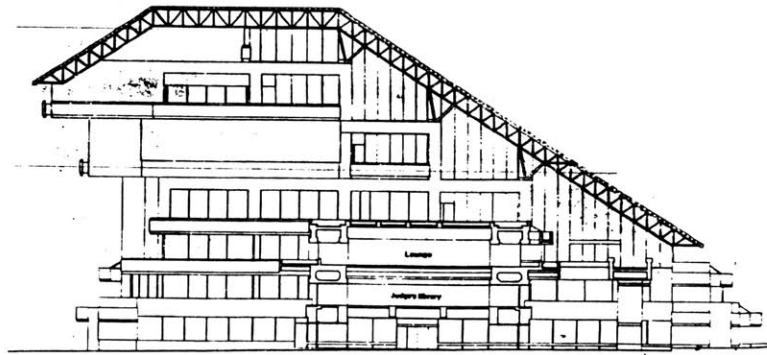


(left) Henry Singleton and William Rumbold, *Old St. Louis County Courthouse, Missouri, 1839-62* (*Michigan Law School, p.236*)  
 (right) circulation diagram

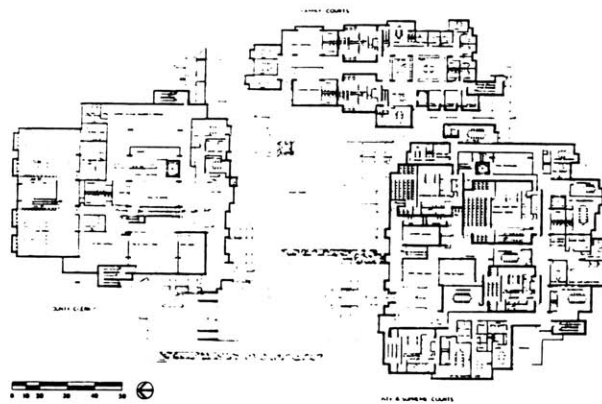
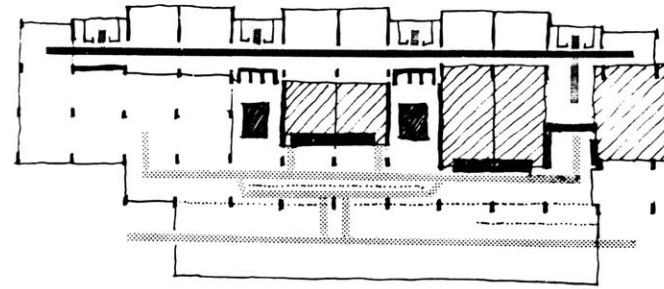


(left) Henry Hobson Richardson, *Allegheny County Courthouse, Pittsburgh, 1884* (*Michigan Law School, p.243*)  
 (right) circulation diagram

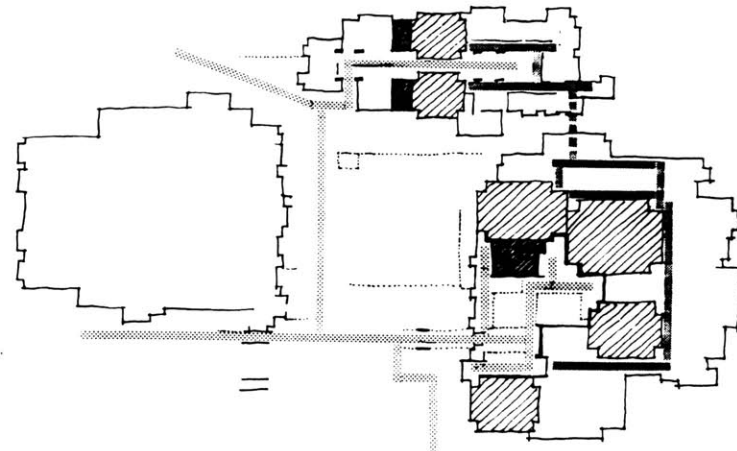




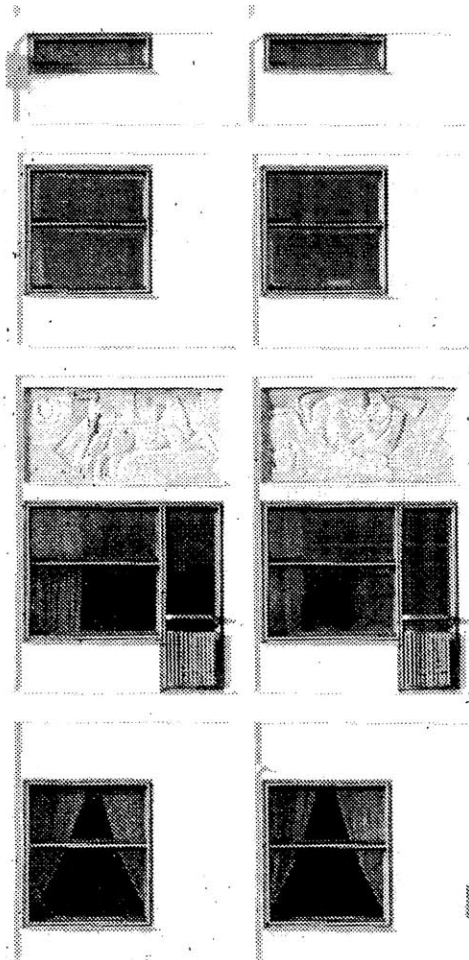
(left) Arthur Erickson, Vancouver Law Courts, 1980 (*Progressive Architecture*, March 1981)  
 (right) circulation diagram



(left) Paul Rudolph, Orange County Courthouse, Goshen, New York, 1963-71 (*Architecture and Urbanism*, March 1972)  
 (right) circulation diagram







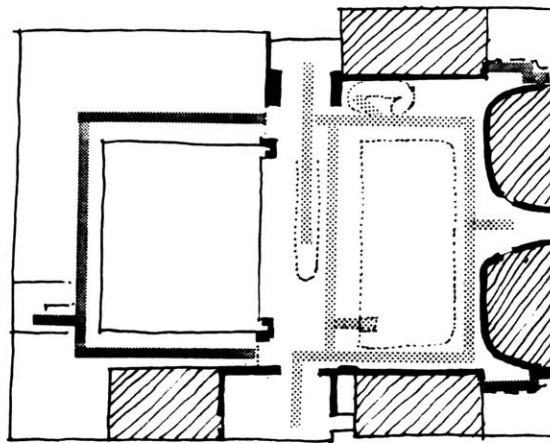
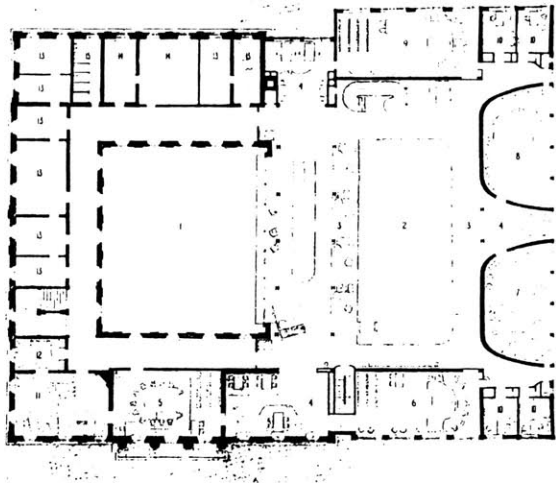
*elevation detail, Gothenberg Law Courts  
(Caldenby, p.109)*

sides, one containing offices, and the other containing the courtrooms. Each side is organized around a courtyard. On the courtroom side, which is the Asplund extension, the courtyard is a covered atrium containing a glass elevator and open stairs. While the circulation is private on the office side, it is intermingled on the courtroom side. The courtrooms are placed sideways towards the circulation such that both the “front” and “rear” entrances open onto the shared public circulation.

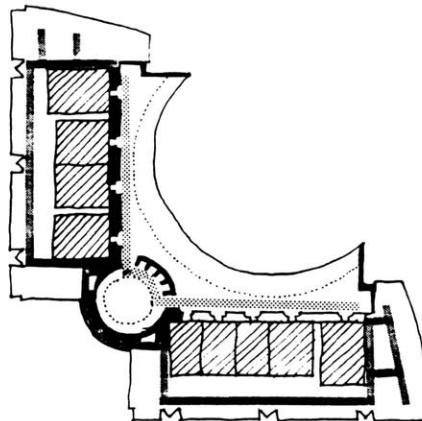
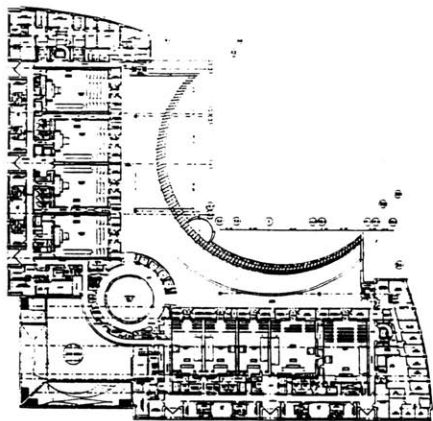
The second task of the Anderson/Popper epistemology is to identify the problems with the tradition. The Cobb proposal for the Boston Federal Courthouse provides a suitable vehicle for this critical examination. The design adheres very strictly to the precedent. One could image it to be exactly like the Soane courts except with two simple plan transformations. Firstly, the main hall would be lined with courts on both sides, creating the condition of concentricity. Secondly, the hall would be cut longitudinally and rotated open ninety degrees. Despite the transformations, however, the major weaknesses of the Soane plan remain. The courtrooms are sandwiched by circulation, and are therefore without natural light, and the main hall, now a dramatic “conoid” opening out relentlessly to a view of downtown Boston is without the privacy of human-scaled elements for pre- or post-court meetings. The addition of a cupola-topped rotunda at the pivot point of the quarter circle rotation acts to reinstate the centrality and concentricity that is potentially undermined by opening up the central hall space.

The growth of bureaucracy in the court system is reflected in the distortions required to maintain the precedent of concentricity. The corridors serving the judge’s offices, holding cells, jury rooms, and clerk’s office are





(left) Gunnar Asplund, *Gothenberg Law Courts*, 1934-37 (Asplund, p.55)  
 (right) circulation diagram

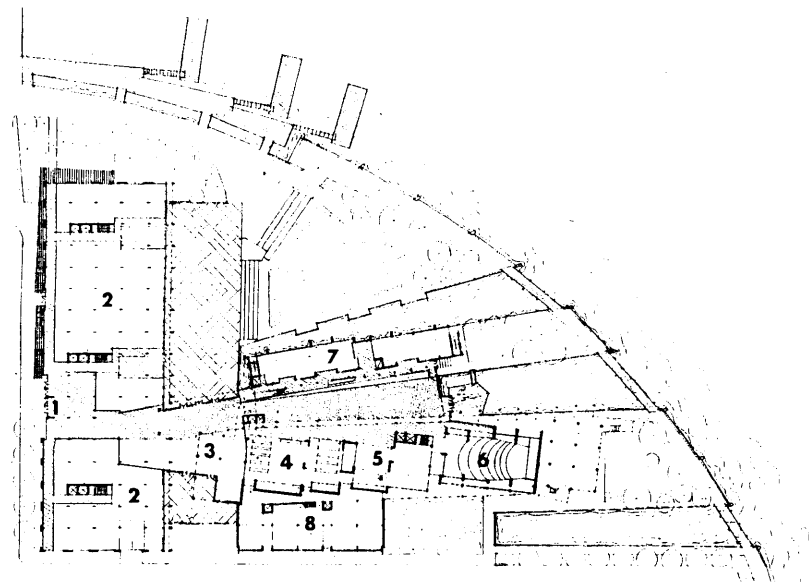
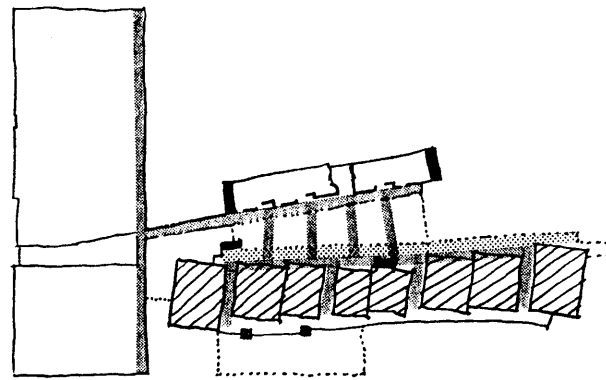
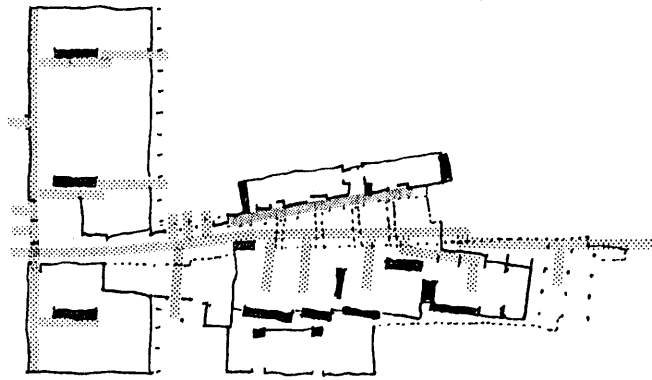


(left) Henry N. Cobb, *Boston Federal Courthouse* (Pei Cobb Freed and Partners, 50% submission drawings)  
 (right) circulation diagram

without apparent order, occurring as required to maintain the sanctity of the outer envelope of the building. This packed-in condition gives the appearance of being “backstage” or “behind the scenes.” Two floors of offices are packed behind each row of double height courtrooms. Additional programmatic functions not accommodated for in the development of the familiar courthouse conventions, such as probation offices, a cafeteria, and exhibition space, are squeezed into the same envelope.

The singular understanding of the symbolic role of the courthouse in American society that the platonic cube form belies seems ill-suited to the pluralism and indeterminacy that I believe is constitutive of democracy and the public realm (see chapter 1.)

The proposition of inventive transformations of the tradition is the third task to tackle. The main transformation I propose concerns the physical and visual separation of circulation systems. By subverting the traditional concentric organization such that the public “hall” is situated between the courtrooms and the judge’s suites and jury rooms, the “private” circulation of the judges and court staff is required to pass through the public atrium space by an elaborate series of bridges, ramps and stairs in order to reach the courtrooms. Visual and other sense connections are allowed while actual physical separation is maintained. The typical path of a member of the public going to court would involve entrance to the main floor of the atrium from which an elevator or stairs would lead up to the courtrooms. The judge and clerks would travel up or down a ramp or stair on the inside face of the atrium to the appropriate bridge, one for each floor. Mezzanine catwalks suspended above the public floor levels lead to stairs located in open zones between every



(top left) circulation diagram of ground level (top right) circulation diagram of typical upper level  
(bottom) June P. Williamson, Boston Federal Courthouse, 1994

other courtroom. The judge, clerks, and jury members (once installed as part of the judicial establishment rather than as members of the public) descend the appropriate staircase, still open to public view, to enter the courtroom at the rear in the traditional manner.

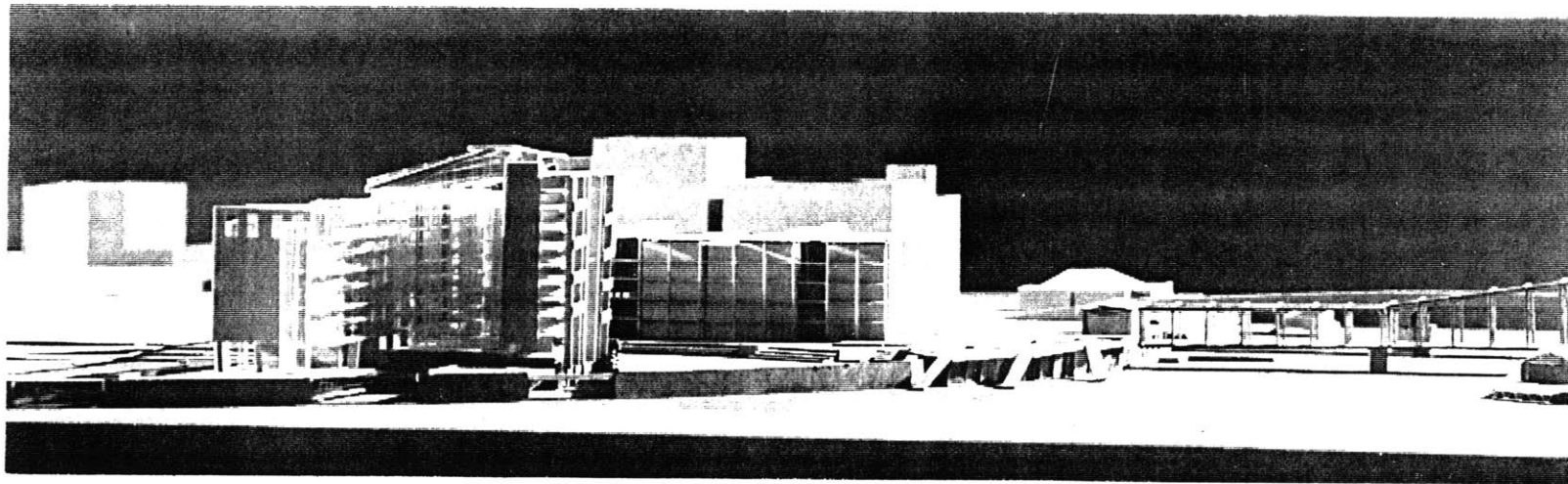
These open zones between courtrooms allow light to pierce the southeast wall of the atrium. Light is also allowed through lounges located on each courtroom floor where one of the typical courtrooms is removed to produce a gap. The circulation for the prisoners is also visually revealed by these open zones and gaps.

Another transformation involves the separation of the bureaucratic functions of the courthouse such as probation offices, pretrial services, court clerks' offices, and staff attorney's offices from the more ritualized and specialized functions of the courtrooms, jury rooms, and judge's suites. An internal public "street" establishes a continuity of circulation and meeting places between these two parts, much like the atrium in Asplund's design for Gothenburg. The circulation of the support offices, directly connected to the judges and jury rooms via a five story bridge, is similarly connected visually to the public.

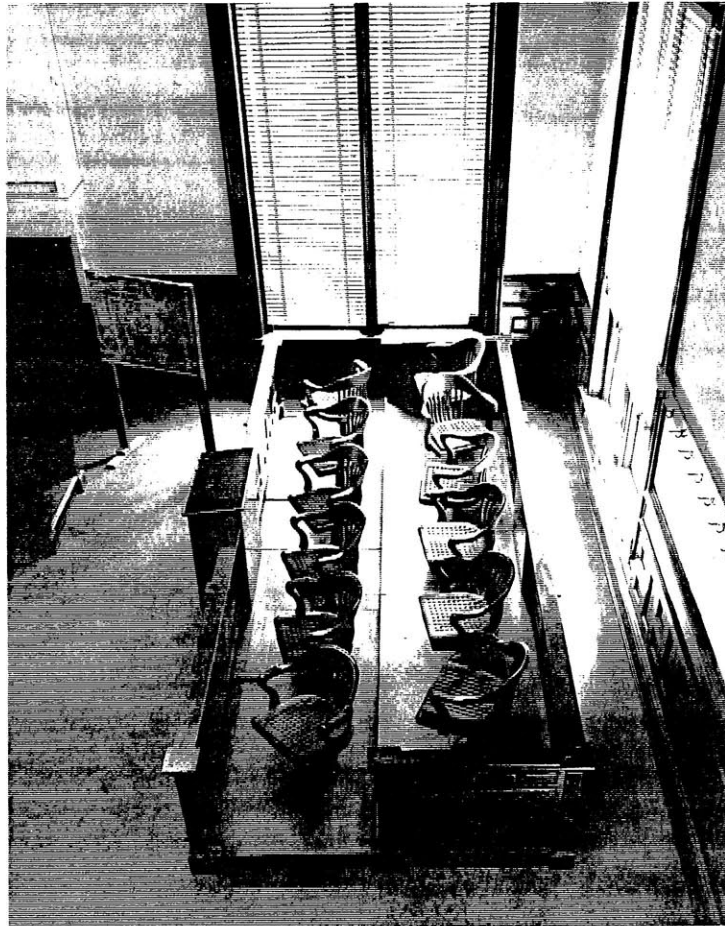
The final task is the evaluation of the effects of the transformations. As my design is destined to remain a "project" and not a building, and Cobb's design is sure to be built, my evaluation must remain hypothetical. That said, the effects of the main transformation requiring the visual crossing of separate circulation system would be to challenge the complacency of the officials and jury members assigned with the weighty task of weighing justice. Conversely, the visual openness of the circulation would improve the perception of the public

concerning the integrity of the institution of the judiciary. The possibility for visual confrontation promotes the concept of accountability by representing it.

The open zones between the courtrooms allow for a three-way visual connection between public, judge and jury, and prisoner, prior to entering the ritualized space of the courtroom. The moment of potential connection prior to entering the realm of law and justice remains situated in the realm of ethics where, as Julia Kristeva explains, the notion of universal human dignity may be explored (see chapter 1.) Once the courtroom has been entered, however, ethics is superseded by the consideration and evaluation of specific points of law.



*final model, view from north*



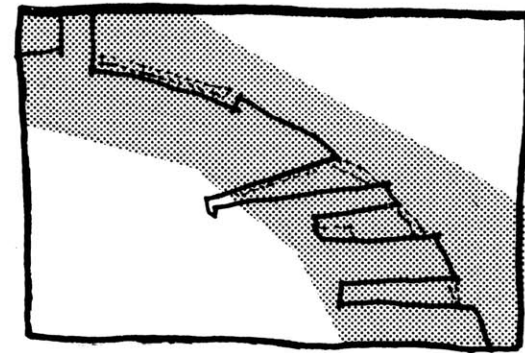
*W. C. Dodson, Hill County Courthouse,  
Hillsboro, Texas, c.1889 (Pare, plate 84)*

## INDETERMINACY IN THE PLAN

It is in the plan of a courthouse that the notion of radical indeterminacy, proposed by Chantal Mouffe as a constitutive characteristic of democracy, may be explored most fully. I examined the various programmatic elements of the federal courthouse project as separate entities and found that relationships between each other are far from harmonious. In many cases, these relationships are oppositional and even antagonistic, much like the two facing sides of the British Parliament described by Paul Goodman (see chapter 3.) I have sought, in the organization of the plan, to reflect the antagonistic and indeterminate nature of these relationships. This is not to say that the plan is unresolved or conceived in a chaotic manner, nor is it to suggest the adoption of a Deconstructivist style-making, dependent on the appearance of instability (and so obviously deceptive in built work.)

There are several strategies in the plan for exploring the expression of indeterminacy. The first concerns the relationship of land to water on the Fan Pier site. The entire Fort Point Channel district, and indeed much of present-day Boston, consists of landfilled marshland and tidal flats. The border between land and water, then, has constantly shifted with time as tidal flats were dredged, docks and slips were built for shipping, and then filled to accommodate rail transport. The present quarter-circle configuration of the Fan Pier is a direct result of the turning radius of the freight trains that arrived in Boston to transfer cargo.

There now exists an opportunity to reverse the direction of this shifting border by allowing some filled land to be reclaimed as water. To this end, the



*land/water, shifting border*

Fan Pier has been reconfigured back into three piers (as it once was, the next pier out is Pier 4) but the reconfiguration is not a reconstructive strategy, as the location orientation and size of these new fingering piers is not based on the originals. Instead, the site design is generated by observation of the directional field of the site, which is primarily southwest/northeast as demonstrated in the surrounding street pattern. At the Fan Pier, however, the directional field is pulled, as if magnetically, towards the north, the center of Boston's "hub." My design for the configuration of the water's edge is based on these observations.

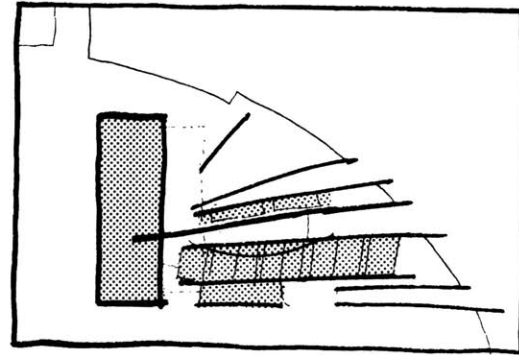
A second strategy concerns the aforementioned relationship between the bureaucratic spaces of the courthouse—probation offices, U.S. Marshal's office, etc.—and the performance spaces—the law library, judge's offices, jury rooms, holding cells, prisoner processing and, of course, the courtrooms. The efficient and just functioning of the judiciary depends on a dialectic between the separate activities occurring in these spaces. One is not subservient to the other. To illustrate, it is possible to avoid a costly, emotionally draining appearance in court if efforts at mediation or forms of negotiated settlement are successful. Conversely, court decisions such as restraining orders, probation, and fines are meaningless if efforts at following through are insubstantial.

I have tried to express this dialectical, non-hierarchical relationship in the plan. The dynamism of the central atrium space and the more ritualized functions placed around it, which are affected by the "magnetic pull" of the directional field on the site, is contrasted to the more placid and stable form of the service office buildings, located along old Northern Avenue, which will be open for longer hours and have a more active and frequent interface with the

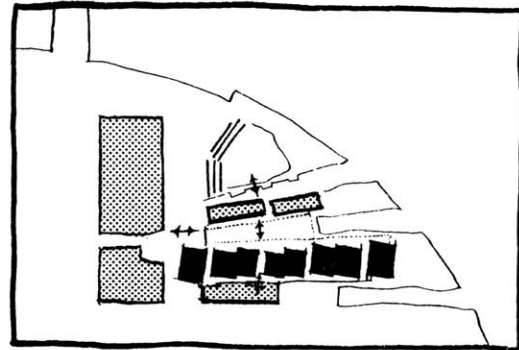


public. The dynamic ritual spaces are designed to a high level of specificity concerning the fit of form to use. The service office buildings, on the other hand, are designed to accommodate multiple variations in internal space organization, along the model of speculation office space, though much more generous in dimensions, light, and options for natural ventilation.

The fit of form to use in the design of the dynamic spaces occurs in a building fabric characterized by openness, structural continuity, and visual accessibility, with the exception of the courtrooms which are like boxes suspended in the open network of building fabric. This openness allows for the expression of antagonism between the various elements organized along the fan: the public side of the courtrooms faces the block of judges' offices and jury rooms, the prisoner holding cells and circulation are suspended across the rear of the courtrooms, with visual access through to the public lounges and central atrium, and an outdoor plaza suitable for public rallies as well as picnics faces across water towards the judges' office block to one side and the City of Boston to the other side. In addition, all of these elements are open to views of Boston Harbor as a result of the general organization of fingers spread out like a partially opened fan.



*stability/dynamism dialectic*



*expression of antagonism*



*Harlan County Courthouse, Harlan, Kentucky,  
1918-21 (Pare, plate 19)*

## COURTROOM AS THEATER

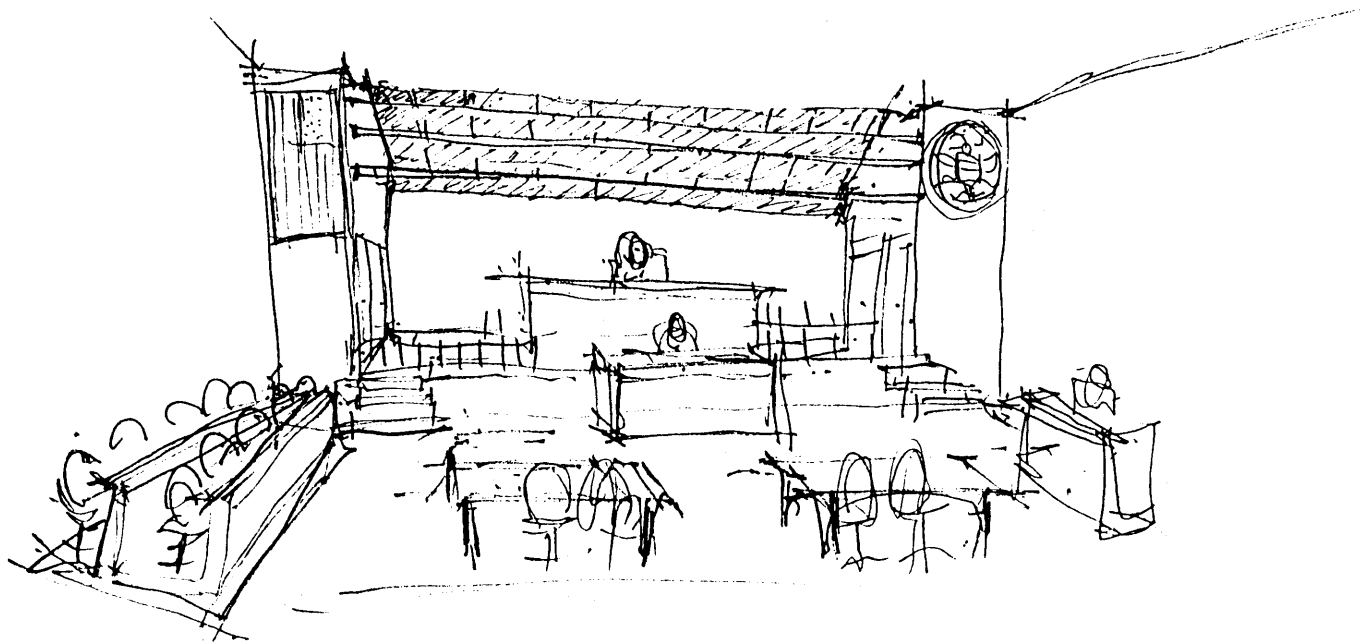
In my interpretation of the courthouse, I recognize the courtroom, rather than the whole courthouse, as the arena for the enactment of the traditional legal ritual. Prior to entering the courtroom itself, the people who will come together in court may maintain their identities as equal citizens interacting in the public realm. Upon entering the courtroom, however, each assumes his or her appointed role in the proceedings, which then take on the quality of theater. The innate drama of the court is reflected in the popularity of Court TV and courtroom plots in film, fiction, and television.

The strategy for addressing the condition of theatricality is to remove the conventional implicit markings of authority, like rich woodworking and ornate light fixtures, from the courtroom while maintaining the traditional legal procedures and spatial hierarchies that denote the actual conditions of authority, such as the raised platform for the judge's bench. This strategy is analogous to that used in a contemporary "black box" theater where unnecessary props, costumes, and sets are eliminated and no effort is made to reproduce an illusion of physical reality. Instead, the courtroom/theater is understood to conform to its own highly structured logic, dependent on precedent and explicit symbolism.

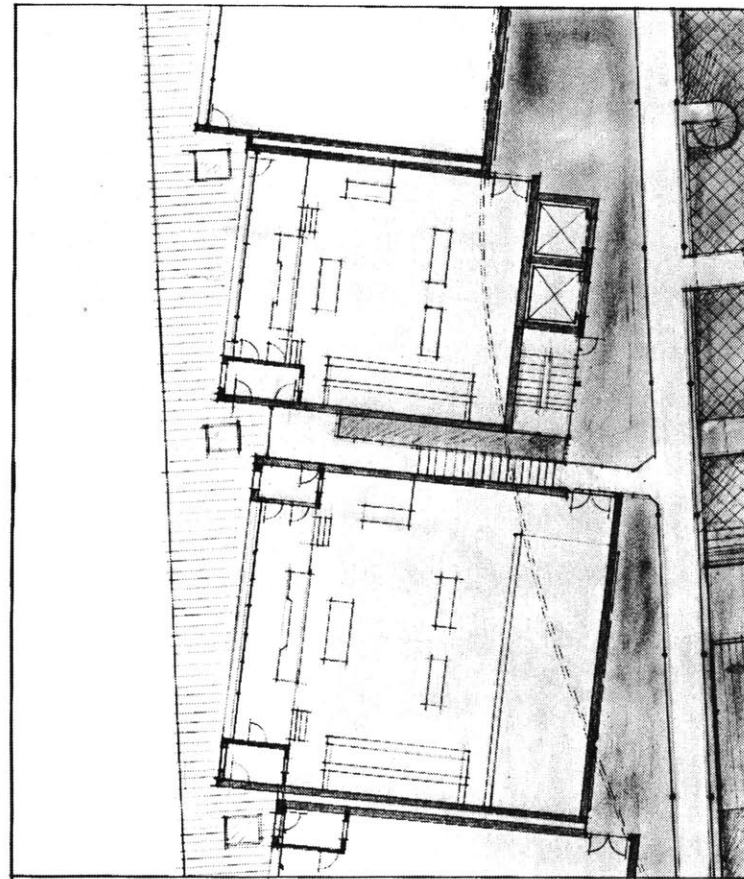
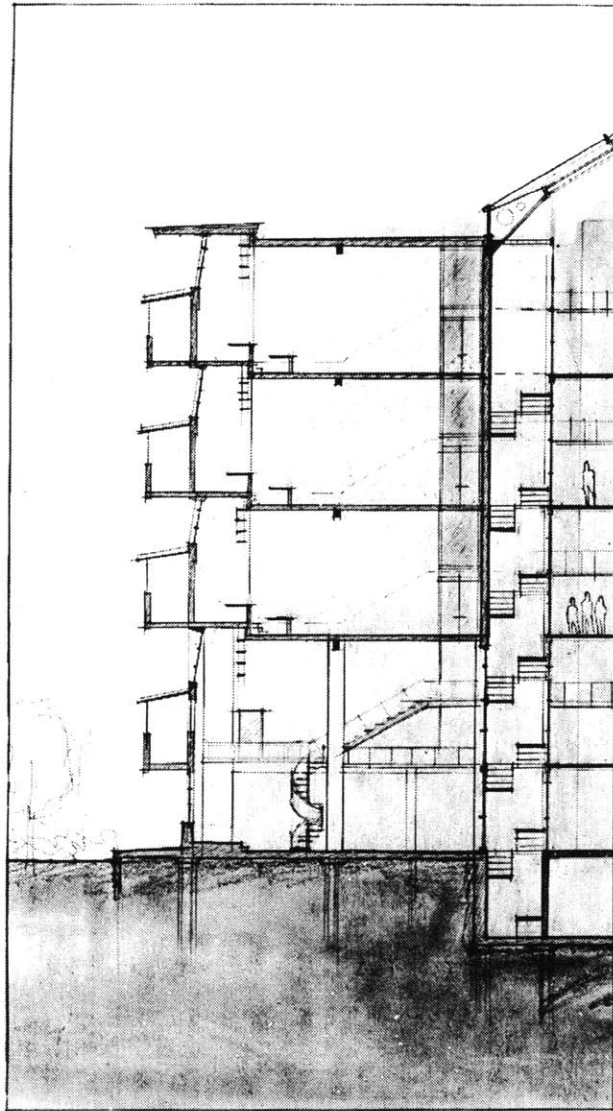
Examples of explicit symbolism in the courtroom include the aforementioned raised platforms, the national flag and seal, and the spatial relationships between judge's bench, counsels' tables, the witness stand, and the jury box (see chapter 3.) The public observes as audience from the rear of the room, or on television. The judge and jury, however, are also engaged as

an audience of a play embedded within the larger play (a favorite device, as in Shakespeare's *Hamlet* and Peter Weiss's *Marat/Sade*.)

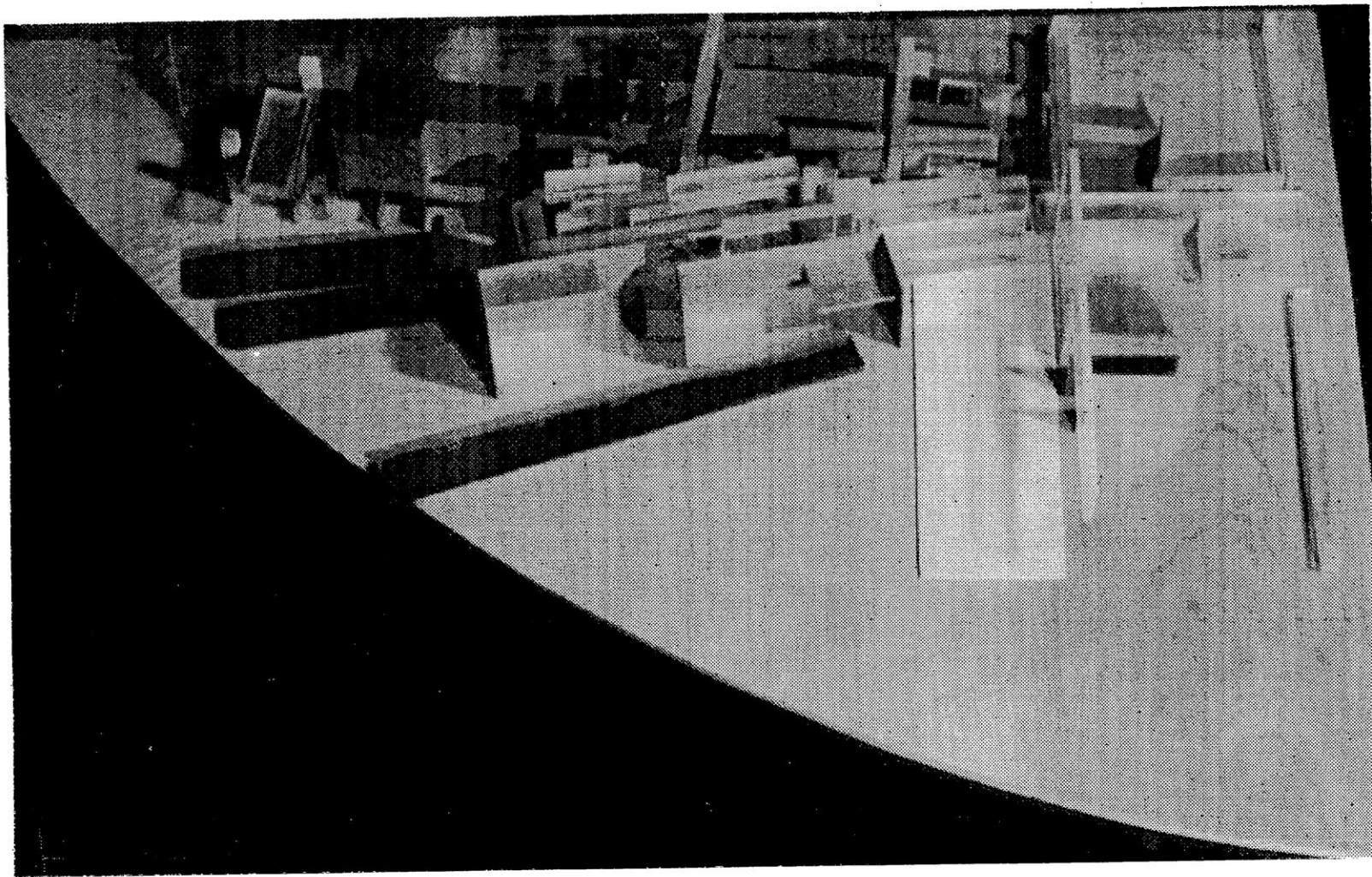
In designing the courtrooms I have sought to achieve a contrast with the dynamic atrium space outside, in which the theater of everyday life is played out. The courtrooms are box-like in form, with "side-wing" entrances at the front and rear to emphasize the axial symmetry. The ornamentation is sparse, and the spatial relationships between the seating elements are stable. A horizontal strip window with shading louvers allows natural light to illuminate the austere forms.



*perspective sketch of courtroom*



*detail section and plan of typical courtrooms*

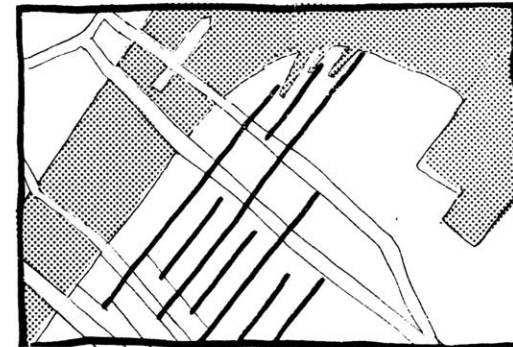


*conceptual model of public places and interior street connections*

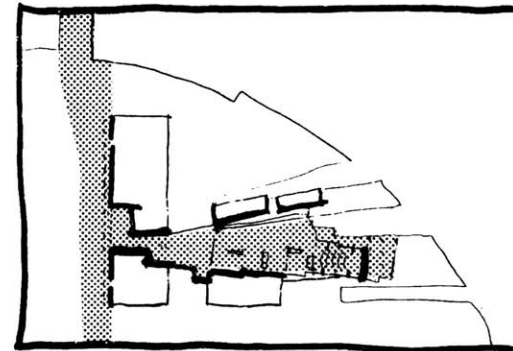
## PUBLIC SPACE AND THE STREET

I have conceived of the main public circulation spine of the courthouse as a continuation of the street. The internal street continues the north-south street pattern of the Fort Point Channel warehouse district, though transformed by two conditions: the enclosed nature of the spaces and the axial approach towards the ocean. Along this street, which ends not with an object or specific place, but with an opened out view to the wide expanse of Boston Harbor, are located various public uses—an exhibition space, cafeteria, outdoor plaza and with a focused view of downtown Boston, a law library, lounging places, and an auditorium. It is the active support of these uses that make the public circulation into a street.

The first part of the street is enclosed with solid roofing and small skylight apertures, reminiscent in proportion of a covered bazaar. After the first 120 feet, the space opens up on one side to a view of the park and downtown; here one is afforded a first glimpse of the complicated circulation that awaits in the form of the four story glassed bridge linking the service offices and the judge's suites. After passing through the security checkpoint, which is located here where it is required rather than at the Northern Avenue or park entries, one enters the 100 foot high skylit atrium space, which is proportioned like a narrow city street except that the street walls are opened up to expose a network of "streets in the air" made up of bridges, ramps, stairs and mezzanines.

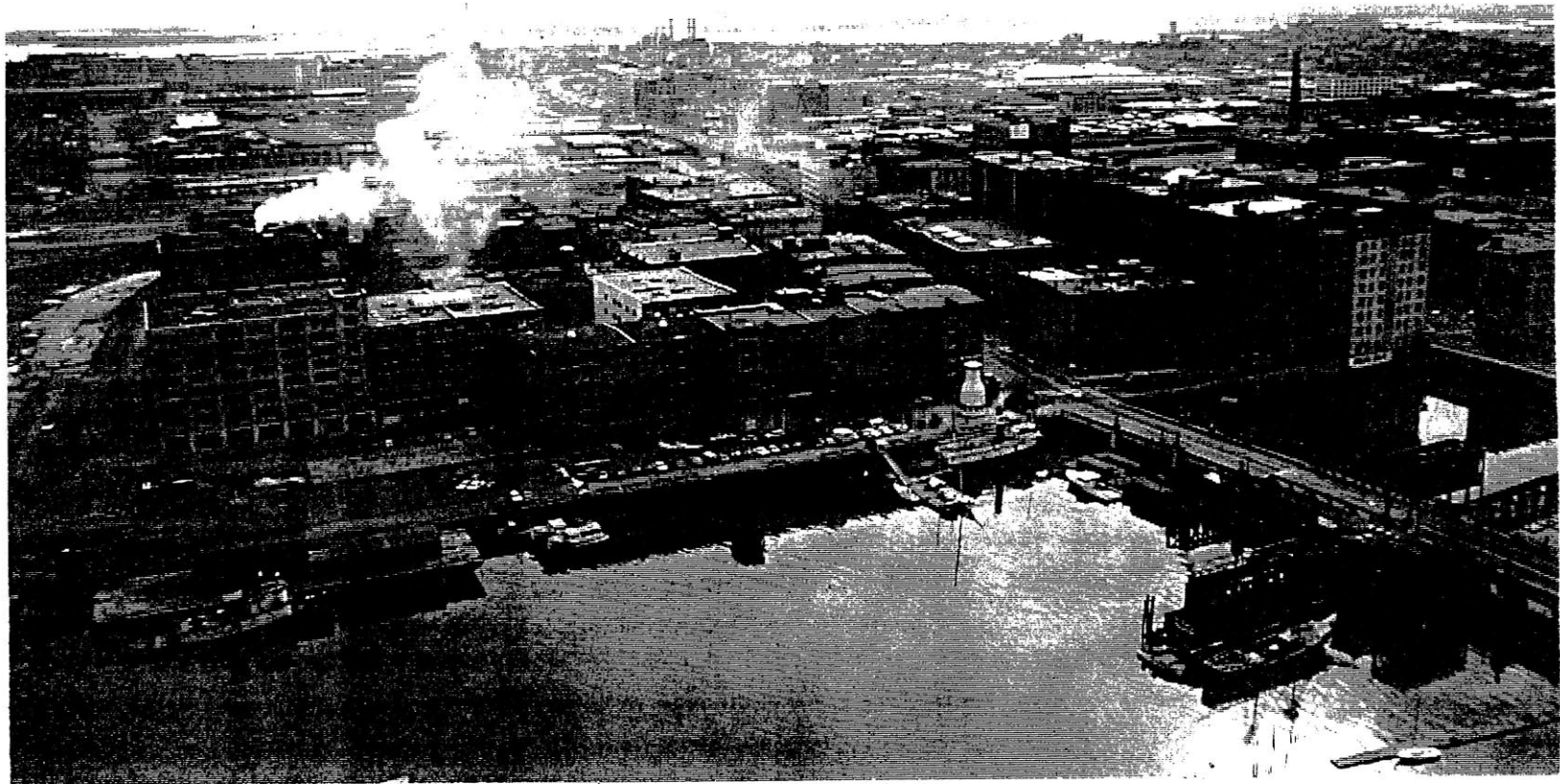


*north-south street pattern*



*continuity of the street*





*aerial view of Fort Point Channel warehouses (MIT Rotch Visual Collections)*



## A CONTEXT OF WAREHOUSES AND PIERS

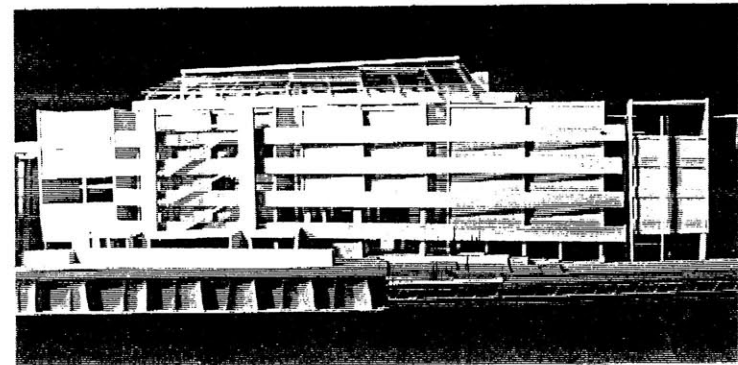
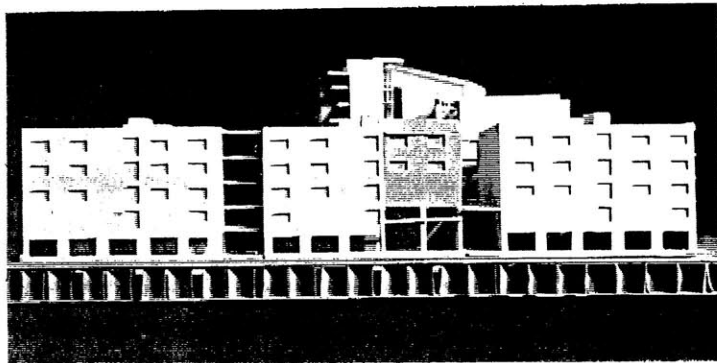
The history of the Fort Point channel area is one of commerce and transportation. It is to this context, not the downtown financial district across the channel, that the design responds. Two primary building types are found in the vicinity of the site: warehouses designed for storage and light manufacturing, and piers serving the shipping and fishing industries. A variety of other interesting building types are also located in the area, including seasonal circus tents, nightclubs, and the Chapel of Our Lady of Good Voyage, which stands alone amid a sea of parking lots, but it the piers and warehouses that are most evocative.

Piers limn the edge between land and water, with posts reaching down to the ground underneath the water for structural support, and decking projecting out as a horizontal plane above the waterline. The buildings on these piers are typically long and low, with a repetitive spanning structure. It is these attributes of the pier that I have attempted to integrate into the courtroom block, judges' offices, and public atrium. The courtrooms are raised, as if the public places sheltered beneath (library, cafeteria, auditorium, and outdoor courtyard) were analogous to the water's surface. In addition, the structural frame supporting the public walkways and judges' mezzanines on the atrium face of the courtrooms is partially footed in one of the water channels on the site, as is the structural frame of the judges' offices.

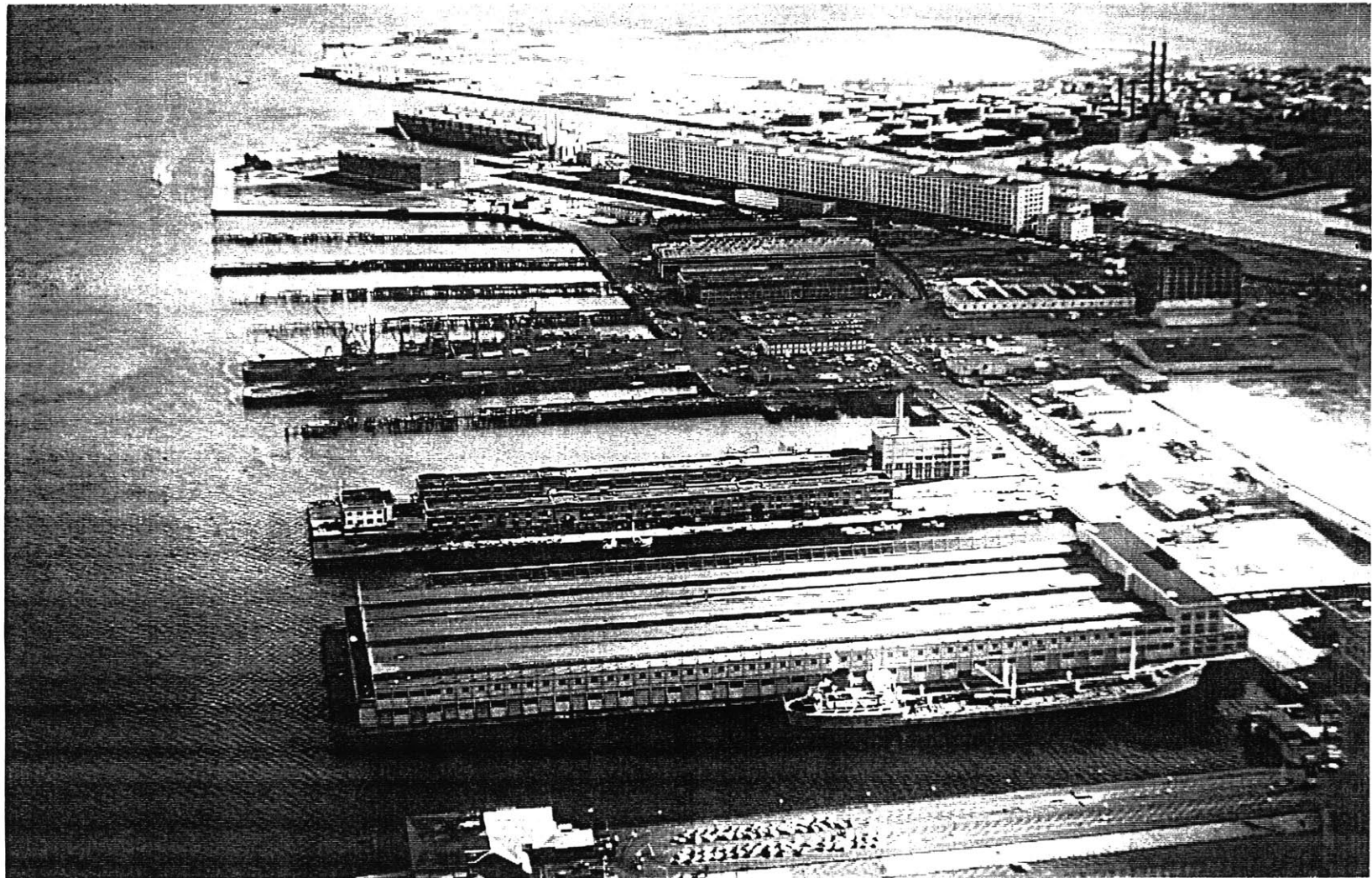
The warehouse is an intriguing form because of the typically generous dimensions that allows a variety of uses, I have borrowed these dimensions—twelve foot ceiling height, sixty foot overall height, hundred foot depth, large

windows— in the design of the street facing buildings of the courthouse. The construction, however, is transformed from bearing brick masonry to a reinforced concrete frame with glass and metal infill, from which a thin granite rain screen is hung, casting deep shadows.

Just as the warehouses of the Fort Point Channel stored goods, the “warehouses” of the courthouse store government service facilities. The familiar scale of these buildings, augmented with a long glassed-in street arcade, makes for easy open access to the various offices that are visited frequently by lawyers, people on probation or filing claims, and government employees. The security risk is lesser in these areas, hence the X-ray searches commonly found in the main entrances to courthouse facilities are not placed in the multiple entries to these places. Instead, the circulation converges along the “interior street” of the courthouse at a point prior to entering the atrium where the main threshold for security is then located.



*final model, elevation views*



*aerial view of Boston waterfront piers (MIT Rotch Visual Collections)*

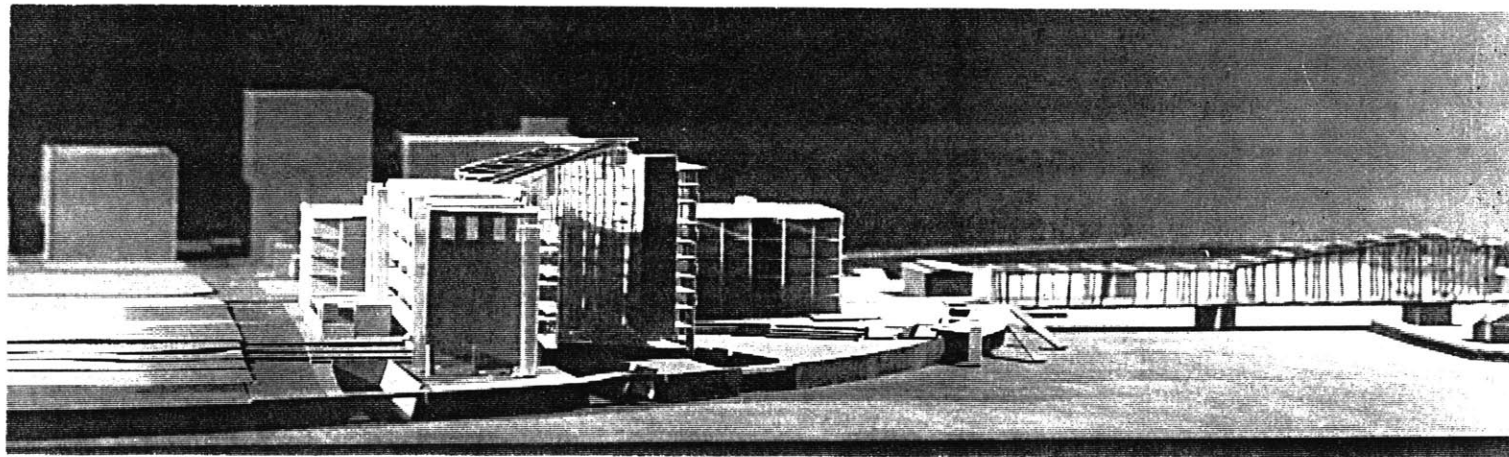
## CONCLUSION



*Norfolk County Courthouse in Dedham, Massachusetts, 1827, site of the infamous Sacco and Vanzetti murder trial in 1922 (Pare, plate 170)*

In closing I would like to comment on the significance of the judiciary in American culture. Periodically, national attention is focused on the outcome of one particular case. Sometimes this is because the details are fascinatingly lurid, as in the cases of Charles Manson and Lorena Bobbitt. At other times regional, ethnic, or religious tensions are at play, such as in the Scopes trial concerning the teaching of evolution and in the beating of Rodney King in Los Angeles. Another cause for focused attention is when a new precedent is being set, as in the “Twinkie defense” of temporary insanity in the trial of Dan White, who killed San Francisco City Supervisor Harvey Milk, or justification due to child abuse in the case of the Menendez brothers. When the court is making policy national attention is also fixated; primary examples are *Brown v. the Board of Education*, which enforced school desegregation, and *Roe v. Wade*, which legalized abortion.

In many of these cases, the public interest is aroused at a sociological level. All effects are expected to have a reasonable cause. Endless hours of television news and talk shows are devoted to discussing these cases. The public fascination with comprehending the root causes of various behaviors is a valid one, but it may ultimately serve to cloud the primary issue at stake when a case arrives in court—the application of the Law. Of course it is true that many cases are settled out of court because the issues are not so controversial, the outcome predictable and the terms therefore negotiable. It remains true, however, that in court the issue is not one of ethics or justice, it is about the Law, which is a human-devised process of defining, refining, and applying norms of acceptable behavior in an organized society. It is at this level that court decisions must be made.



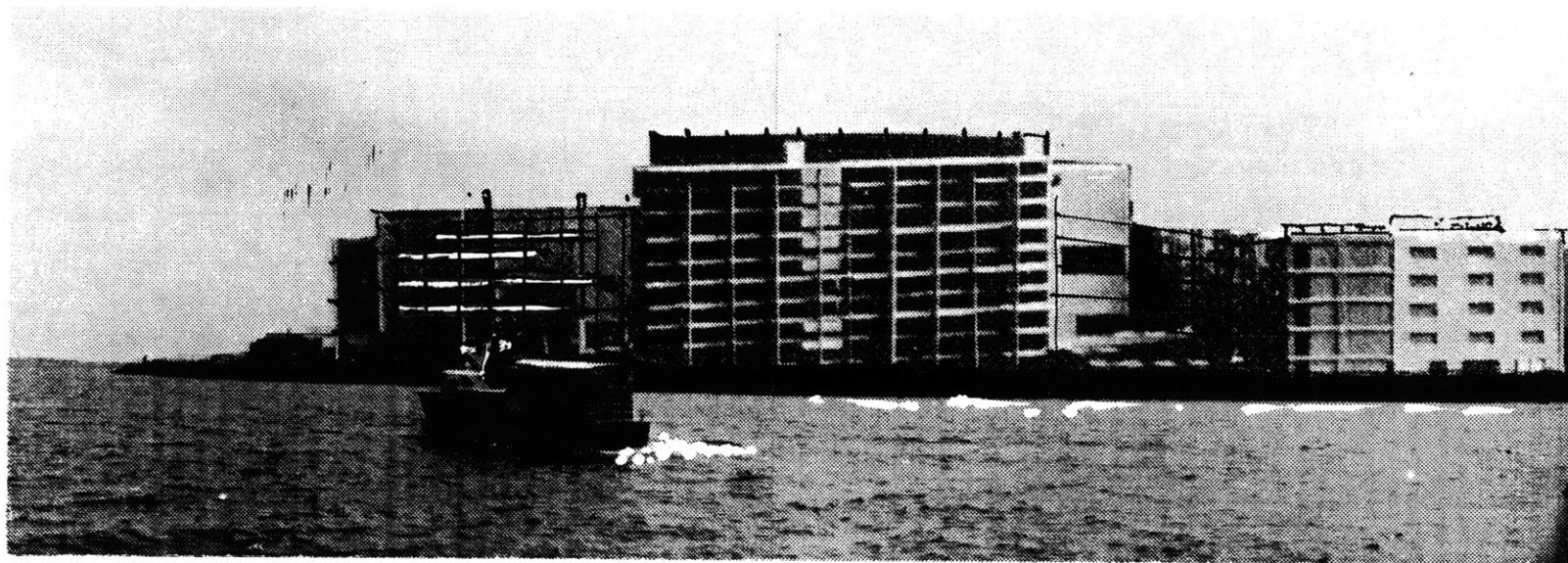
*final model, view from northeast*

If judges and jurors are susceptible to defenses based on sociological evidence, the integrity of the legal system as a constructed set of guidelines (albeit changeable) of acceptable behavior will be compromised. The courts will then be asked to play the impossibly ambiguous role of reflecting public consciousness and collective guilt about the failings of our society to provide an equivalent experience to every member. This suggests a state of denial about the necessity of difference and ambiguity about identity in our day to day social relations which must be at odds with the constructed definitions of the political institution of the Law.

In this thesis I have attempted to apply this conviction about the nature of the Law in the design of a federal courthouse. It seems clear that the cultural role of the courts is under challenge such that the integrity of the system is in question. The present institutional response is to strengthen the appearance of "Law and Order." I believe that a different approach to the Law is in order.



## APPENDICES



*photo montage of working model and site  
photos, view from Rowes Wharf*



## PROGRAM

### SERVICE OFFICES

District Court Clerk .....	22600
Appeals Court Clerk .....	12300
Appeals Court Staff Attorney .....	5100
U.S. Attorney .....	65500
Probation .....	17600
Pretrial .....	6000
Settlement .....	1100
Circuit Executive .....	4000
U.S. Marshal Service .....	31800
Bureau of Prisons .....	2200
<i>total</i> .....	<i>168200</i>

### COURTS

District courtrooms .....	5 @ 3000, 11 @ 2400 & 3 @ 1600
subtotal .....	46200
support areas (+100%) .....	44800
<i>total</i> .....	<i>91000</i>
Magistrate courts .....	6 @ 1600
subtotal .....	9600
support areas (+100%) .....	9400
<i>total</i> .....	<i>19000</i>
Court of Appeals .....	1 @ 3000 & 1 @ 2400
subtotal .....	5400
support areas (+50%) .....	2900
<i>total</i> .....	<i>8300</i>

### CHAMBERS

District Court chambers .....	20 @ 500
subtotal .....	10000
support areas (+300%) .....	32000
<i>total</i> .....	<i>42000</i>



Magistrate Court chambers .....	6 @ 500
subtotal .....	3000
support areas (+250%) .....	7600
total .....	10600
Court of Appeals chambers .....	13 @ 500
subtotal .....	6500
support areas (+175%) .....	11200
total .....	17700

#### JURY

Jury assembly .....	7500
Grand Jury suite .....	6 @ 1250
total .....	7500

#### PUBLIC USES

exhibition .....	2000
cafeterias .....	7500
law library .....	20300
auditorium .....	6000
other services .....	6500
total .....	42300

#### MAINTENANCE & STORAGE

mailroom .....	300
loading/storage .....	2100
bulk storage .....	1000
maintenance .....	1700
parking for 130 vehicles .....	41500
total .....	46600

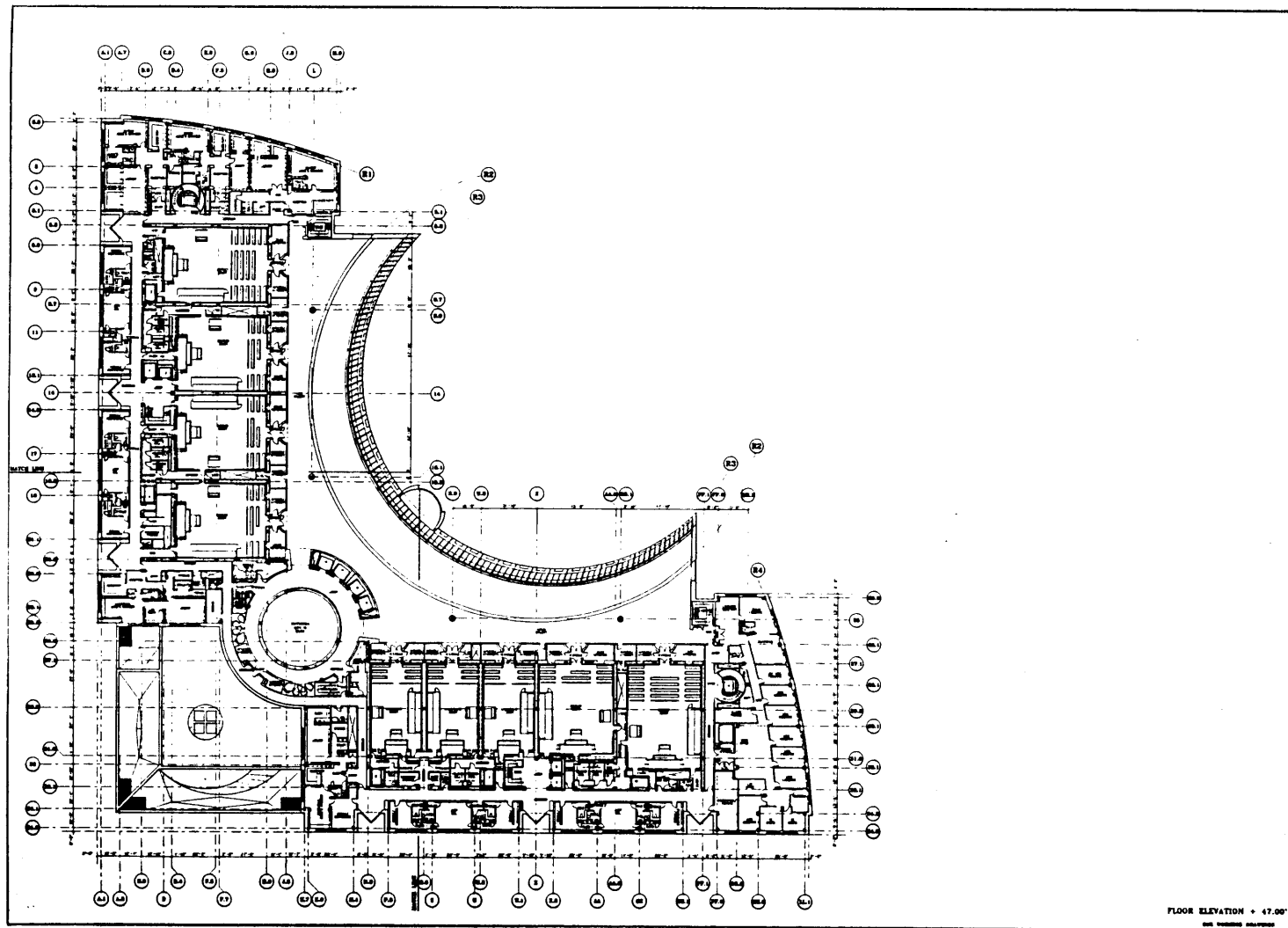
GRAND TOTAL .....	453200 square feet
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## BOSTON FEDERAL COURTHOUSE DESIGN BY HENRY N. COBB

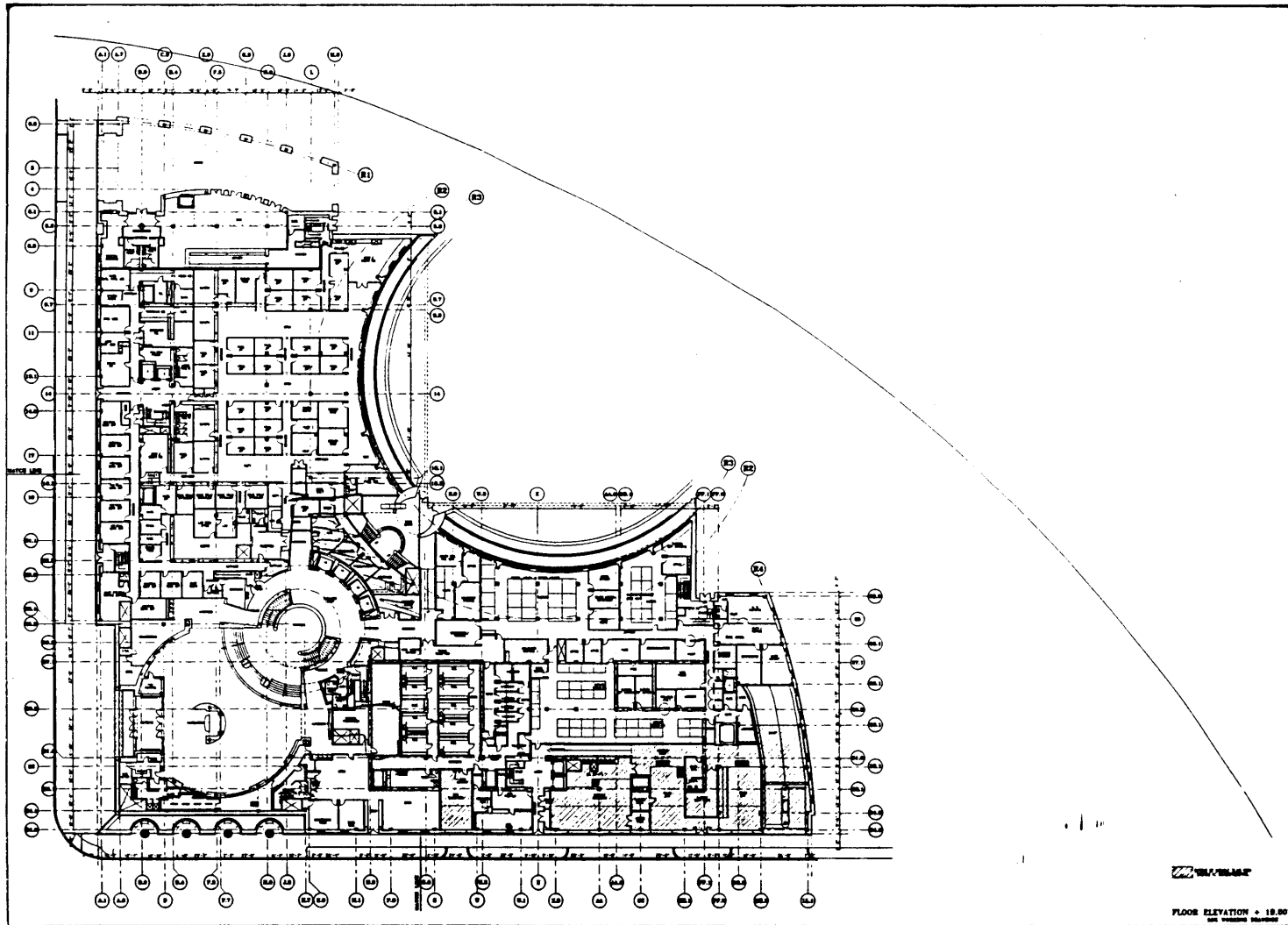
This thesis is a challenge to the design by Henry Cobb of Pei Cobb Freed and Partners that is presently under construction. The following drawings represent design development at the 50% completion stage. An entire set of drawings was generously made available to me by the on-site project office of the General Services Administration. In my thesis proposal I wrote, "This investigation is clearly intended to be polemical. The further away I can travel in my own design work from the present courthouse design without (self)deconstructing the more successful I will have been." For comparative purposes, I have included this appendix.



*perspective drawing of main entry (from GSD Exhibit Brochure, 1994)*

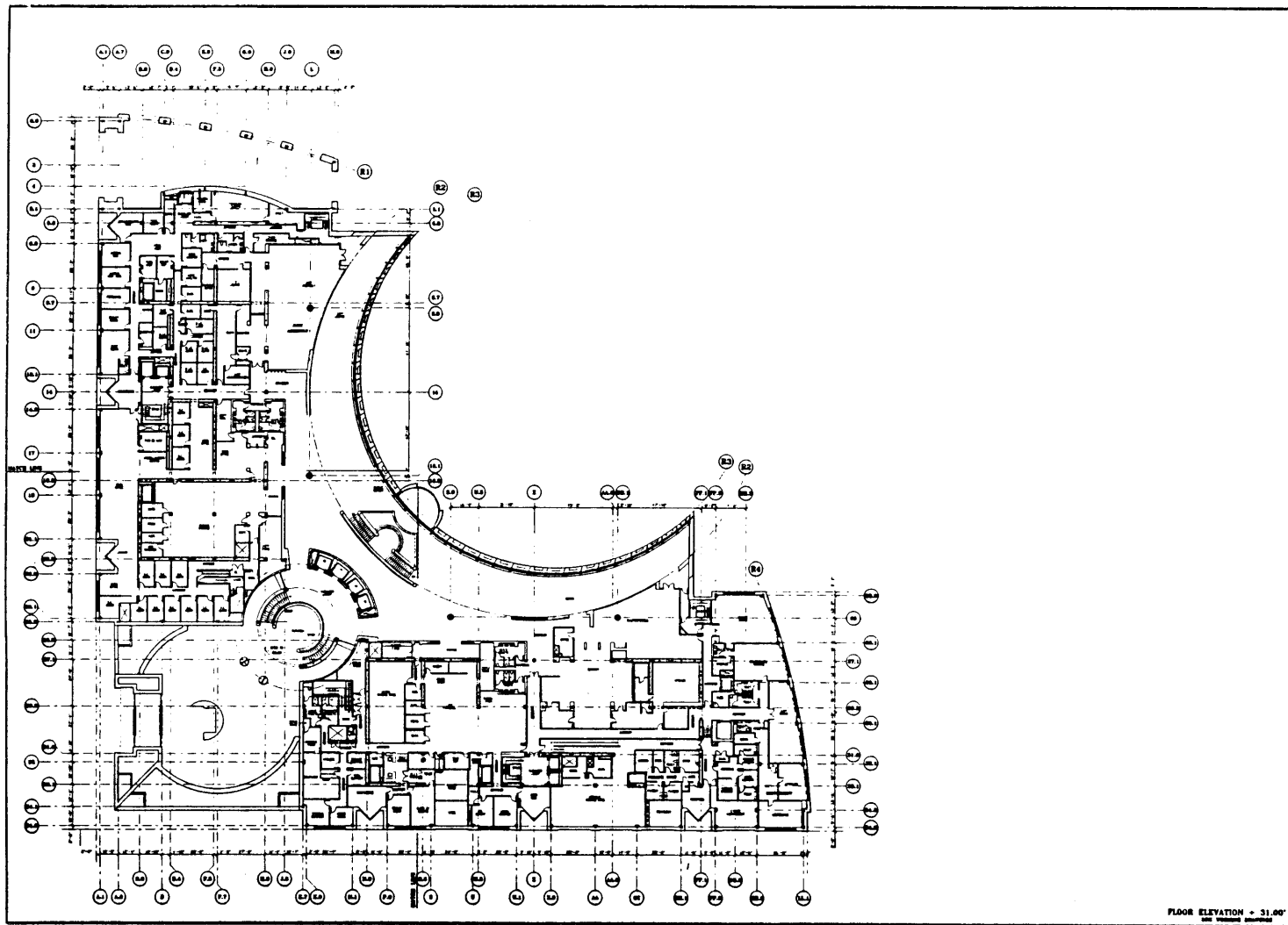


third floor plan, showing typical courtrooms (Pei Cobb Freed and Partners, 50% submission set, 1993)

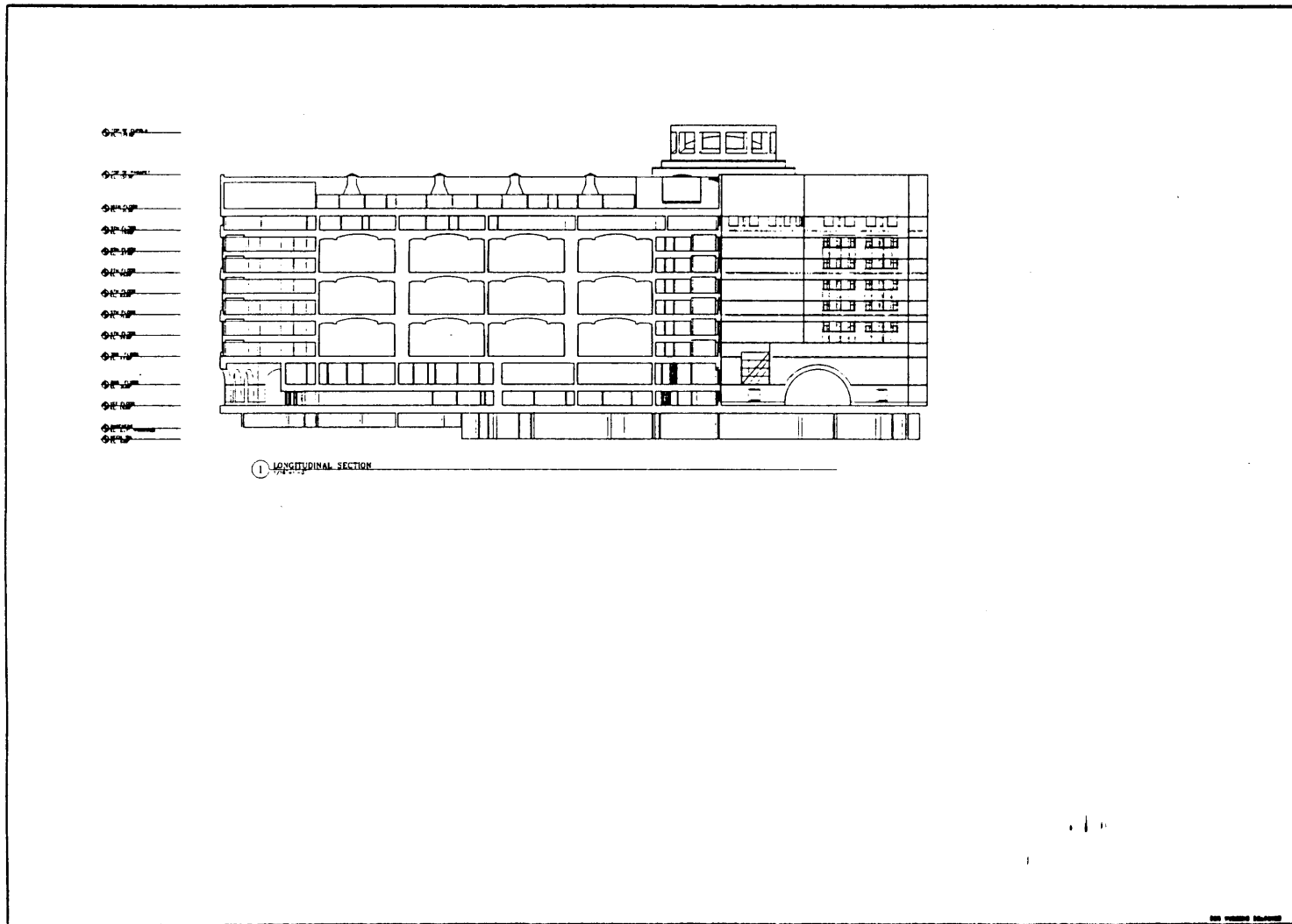


*first floor plan, showing street and park entries (Pei Cobb Freed and Partners, 50% submission, 1993)*

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second floor plan (Pei Cobb Freed and Partners, 50% submission, 1993)



*longitudinal building section (Pei Cobb Freed and Partners, 50% submission, 1993)*

122 THE BOSTON FEDERAL COURTHOUSE



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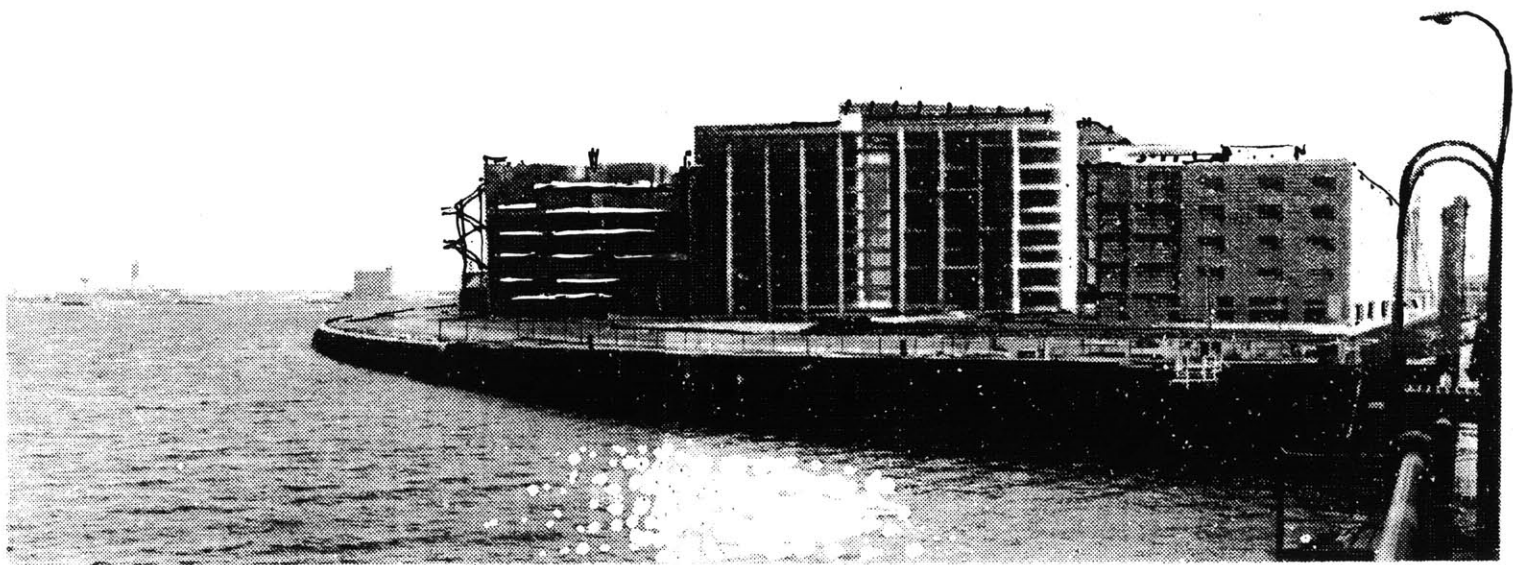
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